



**OIC/IPHRC-5/2014/REP.FINAL**

**REPORT  
OF THE FIFTH REGULAR SESSION  
OF THE OIC INDEPENDENT PERMANENT HUMAN RIGHTS  
COMMISSION  
(IPHRC)**

**Jeddah, Kingdom of Saudi Arabia**

**1 – 5 June**

**2014**

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**REPORT  
OF THE FIFTH REGULAR SESSION  
OF THE OIC INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION  
(IPHRC)**

**1 – 5 June 2014**

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- 1- The Independent Permanent Human Rights Commission (IPHRC) of the Organization of Islamic Cooperation (OIC) held its fifth regular session on 1 – 5 June 2014 in Jeddah, Kingdom of Saudi Arabia, at the OIC General Secretariat.
  
- 2- The meeting was attended by the following IPHRC experts:
  - Dr. Raihanah Binti ABDULLAH
  - Dr. Oumar ABOU ABBA
  - Amb. Ilham Ibrahim Mohamed AHMED
  - Amb. Mostafa ALAEI
  - Dr. Saleh Bin Mohamed AL-KHATLAN
  - Mr. Adel Issa AL-MAHRY
  - Amb. Wael Mohamed ATTIYA
  - Amb. Ousmane Diao BALDÉ
  - Dr. Siti Ruhaini DZUHAYATIN
  - Dr. Ergin Ergul
  - Amb. Mohammed Kawu IBRAHIM
  - Mr. Mahamad Al-Bachir IBRAHIM
  - Mr. Med S.K. KAGGWA
  - Mr. Mohammed RAISSOUNI
  - Mr. Mohammed Lamin TIMBO
  - Amb. Abdul WAHAB
  - Mrs. Asila WARDAK
  - Dr. Mohammad Mamduh Madhat AL-ACKER (Absent with apologies)

❖ **INAUGURAL SESSION**

- 3- Following the recital of verses of the Holy Quran, the Chairperson of the IPHRC, Ambassador Mohammed Kawu Ibrahim, opened the meeting. In his introductory remarks, the Chairperson expressed thanks to the Kingdom of Saudi Arabia for facilitating the Fifth regular session of the IPHRC and to the OIC Secretary General, Iyad Ameen Madani, for extending all services for the Session as well as for continued support to the functioning of the IPHRC Secretariat.
- 4- The Chairperson welcomed the participation of Member and Observer States and emphasized the need to enhance interaction between the Commission and Member States while appreciating all the support already extended by the latter, including through submission of valuable inputs on their legislative and policy framework on areas of interest to the IPHRC. The Chairperson also noted with satisfaction the outcome of the recently held Senior Officials' Meeting, preparatory to the 41<sup>st</sup> Session of the Council of Foreign Ministers (CFM), which recommended establishing the IPHRC Headquarters in Jeddah and expressed thanks to the Kingdom of Saudi Arabia for its offer to host the Commission's Headquarters and assurance of extending required support for its smooth functioning. Amb. Ibrahim also briefed the meeting on the status of implementation of the Commission's mandates from CFM including his recent visit to the Central African Republic (CAR) to assess the human rights situation of Muslim minority.

❖ **ADOPTION OF THE AGENDA AND PROGRAMME OF WORK**

- 5- Based on priority areas identified in previous IPHRC sessions, as well as mandates given by the 40<sup>th</sup> Session of the Council of Foreign Ministers, the Commission discussed and adopted its agenda and programme of work during its first formal meeting on 1<sup>st</sup> June 2014. (Copies of the Agenda and Programme of Work are enclosed – Annex 1)

❖ **WORKING GROUPS (WGS)**

- 6- Following the inaugural session, the Commission held a closed meeting to discuss the functions and modalities of the WGs with a view to enhancing its efficiency and productivity. To this end, the Commission decided/recommended the following:

- i. Activate the WGs by, *inter alia*, determining their exact tasks and responsibilities, including required studies/working papers and other outcome documents that each WG should present to the next IPHRC Sessions;
- ii. The necessity to allocate specific time frames for the activities of the WGs based on priority items on the IPHRC agenda was highlighted. Need for communicating in three official languages, strengthening communication with Member States as well as importance of judiciously utilizing the inter-sessional periods was also stressed for efficient functioning of these WGs.
- iii. It was further recommended to resort to the expertise of external consultants and advisors, as and when possible, who could facilitate and add value to the work of the WGs by providing information and resource material that would help craft tangible reports by the Commission on issues of concern/mandated by CFM.
- iv. Suggestions were also made to strictly follow the Agenda/PoW as well as increasing the duration of regular sessions to accommodate the WG meetings. It was also suggested to hold “theme specific” sessions instead of covering all agenda items to have focused discussions and tangible results.
- v. The commission decided to establish a committee composed of Amb. Ilham Ahmed Ibrahim, Dr. Saleh Al-Khatlan, Amb. Mostafa Alaei, Mr. Med. Kagwa and Amb. Abdul Wahab to prepare a concept paper on “guidelines to improve the modalities and working methods of the Commission and its Working Groups including way forward for its work”. The Committee will prepare this concept paper within one month and circulate it to all Commission Members for their views. After incorporating other Commissioners’ views the outcome will be discussed and adopted during a special day-long meeting, immediately prior to the Sixth IPHRC Session.

7- Following the mandate from CFM Res. No. 1/40 – POL, “to establish a standing mechanism on monitoring the human rights violations taking place in Jammu and Kashmir”, the Commission decided to form an Ad Hoc-Sub WG, within the Working Group on Islamophobia and Muslim Minorities, to monitor the situation of Muslim minorities in non-Member States. This open-ended Ahoc Sub-WG comprising Ambassador Wael Attiya and Ambassador Abdul Wahab - will draft a proposed mechanism for monitoring the human rights of Muslim communities and minorities in non-Member States – as per mandate in Statute’s Article 10 and Rules of Procedure’s Rule 2.2. Pending finalization of modalities / mechanism for this purpose, the Commission will closely coordinate with relevant departments of the OIC General Secretariat as well as

reliable sources of information for monitoring the human rights situation of these Muslim minorities and communities.

❖ **HUMAN RIGHTS SITUATION IN PALESTINE AND OTHER OCCUPIED ARAB TERRITORIES**

- 8- The Session on Palestine started with a briefing by the Department of Al- Quds Affairs, of the OIC General Secretariat, represented by Assistant Secretary General, Amb. Samir Bakr Diab, who provided the Commission with a comprehensive overview of the continuing and systematic human rights violations in the occupied Palestinian territories, which *inter alia* include daily denial of Palestinians' basic needs as well as constant administrative, legal and security harassment by Israeli authorities. He also dwelt on the worrying situation of Palestinian prisoners and urged Member States to consider raising these injustices at all relevant UN and international forums to expose Israeli practices.
- 9- Amb. Bakr also informed the Commission about the recent visit of the OIC Secretary General, Iyad Ameen Madani, to Palestine, accompanied by an OIC Ministerial delegation that held meetings with Palestinian leadership and reiterated OIC's unconditional support to the brotherly people of Palestine in their fight for self-determination and ending the occupation. Amb. Bakr further welcomed the recent Palestinian reconciliation as a welcome development for consolidating unity among all Palestinians that would also help advancement of the Palestinian cause.
- 10- The Commission also benefited from a briefing by the representative of the State of Palestine who focused on the issue of the violations of Palestinian human rights through the policy of administrative detention by the occupying power Israel. He made the following concrete recommendations to be considered by the IPHRC:
  - i. Hold a brainstorming session on the policy of administrative detention with a view to finding practical ways to counter this criminal policy in international courts and fora on human rights.
  - ii. Expose Israeli administrative detention, perpetrated against Palestinian citizens, at the international levels.
  - iii. Consider issuing a recommendation for the attention of the CFM to refer the matter to the International Court of Justice (The Hague) to seek an advisory opinion on the status of Palestinian prisoners as war prisoners and the illegality and illegitimacy of Israeli administrative detention against Palestinian citizens, similar to the advisory opinion on the Apartheid Wall.

- iv. Sign the Robben Island Declaration (the International Campaign for the Freedom of Palestinian Prisoners) by the IPHRC Chairman.
- v. Establish collaboration between the IPHRC, the General Secretariat and the State of Palestine to file complaints and submit reports, on specific cases of Israeli violations of Palestinian human rights, to relevant international courts and commissions.

11- The Commission took note of the recommendations made by the representative of the State of Palestine and reiterated its unanimous position that Israeli occupation is the primary cause of human rights violations in Palestine, specifically in terms of people's right to self-determination, consequently impeding the full enjoyment of Palestinians' civil, political, economic and social rights. It requested the CFM to consider referring the matter of administrative detention of Palestinians to ICJ and stressed the importance of taking concrete steps by Member States for exposing specific features of discriminatory practices (such as confiscation of identity documents, illegal settlements, arbitrary arrests, administrative detention, restrictions on freedom of movement etc.) against Palestinians by Israel, the occupying power, from a purely rights based approach.

12- The IPHRC affirmed that it would continue to explore avenues of cooperation with relevant OIC bodies and funds, including the Islamic Development Bank (IDB) and the Islamic Solidarity Fund (ISF), with a view to devising specific development projects for empowering Palestinian people.

13- The Commission further discussed various modalities, including at the administrative and logistics level, of the agreed visit to Palestine, which the Commission had decided to undertake during its 3<sup>rd</sup> Regular Session to ascertain the situation on the ground, establish links and support the role of local human rights organizations. It was also emphasized that the visit would be crucial for making appropriate and practical recommendations to the CFM on the subject. The Commission finalized the list of IPHRC delegation and requested the Secretariat to share the same with the Palestinian side to start necessary procedures. Tentative dates for the visit were set as first half of September 2014.

❖ **AGENDA ITEM ON CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN OIC MEMBER STATES**

- 14- Under its permanent agenda item on “Civil, political, economic, social and cultural rights in OIC Member States”, the IPHRC discussed the sub- agenda items on women’s human rights, rights of the child and the Right to Development (RtD). The IPHRC also benefitted from a briefing by the Director General of Cultural, Social, and Family Affairs of the OIC General Secretariat, Dr. Abubaker Bagader, who briefed Commission members on various activities undertaken by the OIC on these issues. Dr. Bagader also highlighted the importance of IPHRC to be actively involved and adequately represented during the upcoming 5<sup>th</sup> OIC Ministerial Conference on Women, to be held in Baku, Republic of Azerbaijan, in October 2014. It was agreed that General Secretariat will have IPHRC involved in the drafting process of the outcome document of Baku Conference.
- 15- The Commission reiterated its request for Member States to provide IPHRC with their human rights legislative, institutional and policy frameworks related to items under consideration. In this regard, the Commission noted that it had received responses from only 15 Member States and stressed the importance of receiving additional replies, including actual copies of relevant legislation, in order to produce a compendium of best practices for the benefit of all Member States.

**Human Rights of women and rights of the child**

- 16- The Commission reaffirmed that the human rights of women are fully protected under Islamic law and strongly rejected the attribution to Islam of any violent or discriminatory practices impeding the rights of women.
- 17- The Commission re-emphasized the need to first address the issue of the human rights of women on a conceptual basis, *inter alia*, by issuing thematic statements or writing short studies and publications that highlight the positive cultural practices based on Islamic principles and values. In this connection, it was affirmed that while awaiting additional responses by the Member States on their national legislative and policy framework, the Commission should undertake preliminary studies that would pave the way for a clearer conceptual understanding of issues at stake. Commission Members discussed with great concern various elements affecting the life and dignity of women and stressed the importance of addressing women rights from a holistic angle i.e. not just talking about the



physical violence but also on how to promote their economic, social and cultural rights by providing education, economic assistance and basic medical facilities in particular to the rural women.

- 18- Some Member States took the opportunity of the interactive dialogue with IPHRC to provide the Commission with further information on their national laws and policies with regard to the promotion and protection of the human rights of women and of the child, including contemporary forms of discrimination. Commission was requested to work and provide its views on specific issues discussed during the Session namely: early marriage, honour killings, inheritance, harmful traditional practices like FGM, trafficking of persons, child exploitation, women participation in public life etc. to help Member States craft appropriate policies in these areas. The need to seek the views and insights of the Islamic Fiqh Academy on how to deal with some of the sensitive issues was also expressed by the Member States.
- 19- Both the Member States and Commissioners dwelt on the importance of addressing the specific issue of OIC Member States' reservations on international covenants (such as CEDAW and CRC) from a holistic and objective perspective but in a non-apologetic fashion. Commission was urged to look into this issue from a legal perspective with a view to providing objective advisory opinion on whether these reservations conform to Islamic / human rights principles. Commission was also advised to conduct these studies in collaboration with Islamic Fiqh Academy and other reputed NGOs working in this field to objectively analyse and clarify different cultural practices that are wrongly associated with religious teachings. IPHRC agreed on the pressing need to study these reservations in a thematic fashion from a legal perspective as well as to collaborate with with reputed NGOs to promote the true, positive and enlightened teachings of Islam on some of the controversial or sensitive issues/practices.
- 20- The Commission reiterated its call to Member States to expedite ratification of the Statute of the OIC Women Development Organization so as to allow for its early establishment and strengthen the role of OIC institutions in addressing all aspects of the human rights of women. The IPHRC further called upon Member States to implement the OIC Plan of Action for the Advancement of Women (OPAAW) and expressed its readiness to assist Member States in this regard.

- 21- The Commission highlighted the need to enhance interaction with relevant OIC bodies, including IDB, the International Islamic Fiqh Academy (IIFA) the Statistical, Economic, Social Research and Training Centre for Islamic Countries (SESRIC) as well as the OIC General Secretariat, particularly the General Directorate for Cultural, Social and Family Affairs. *It was also recommended that the Working Group on the human rights of women and of the child should co-organize a Workshop on the theme of “rights of women and their status in Islam”, possibly in collaboration with the IIFA and other relevant CSOs.*
- 22- The Commission recommended that the Working Group on the rights of women and of the child should elaborate detailed and result oriented plan of action based on recommendations and points identified in the report of the Fourth and Fifth IPHRC Session. Commission members also stressed the importance of funds availability for hiring technical experts or conducting research etc for these studies by the Commission.

### **Right to Development (RtD)**

- 23- The Commission reiterated the need to address economic and social rights from the perspective of the Right to Development (RtD), being indispensable to the realization of all other rights. Role of IPHRC in helping Member States to implement the provisions of ratified human rights covenants and instruments in this area was also highlighted. In this regard Commission members also emphasized the importance of information and data collection to identify and evaluate challenges that prevent the implementation of RtD in Member States, particularly the least developed ones.
- 24- In follow up to the previous discussions and specific CFM mandate, Commission member, Amb. Mostafa Alaei presented his report on the “Negative Impacts of Economic and Financial Sanctions on the Full Enjoyment of Human Rights of People of the OIC Targeted Countries”, which describes unilateral economic and financial sanctions as illegal, discriminatory and counter-productive to the principles of the UN Charter and other international human rights standards. Commission welcomed the comprehensive nature of the report. A number of additional recommendations were made by the Commission members, which were included in the report that was endorsed for submission to the 41<sup>st</sup> CFM in implementation of its Res. No. 21/40 – POL. (Copy of the Report attached – Annex 2).

25- The Commission expressed concern that some Member States were still lagging behind in the realization of many MDGs and **identified other opportunities aimed at creating conditions for better enjoyment of the right to development like the voluntary services of the youth in the OIC Member States.** The Working Group on RtD had also charted out a number of concrete proposals (enumerated in the report of the fourth IPHRC Session), which would continue to be followed-up by the Working Group.

❖ **AGENDA ITEM ON HUMAN RIGHTS SITUATIONS AND ISSUES ON OIC AGENDA**

26- Under its permanent agenda item on “human rights situations and issues on the OIC agenda”, the Commission addressed the issue of combating Islamophobia and incitement to religious hatred and violence, the human rights situation of the Rohingya Muslims in Myanmar and the situation of Muslims in Central African Republic.

**Combating Islamophobia and incitement to hatred and violence**

27- IPHRC Secretariat briefed the Commission on the proceedings of the 4<sup>th</sup> Meeting of the Istanbul Process for combating discrimination, hatred and violence on the basis of religion or belief, held in Doha, State of Qatar, on 26 March 2014, in which the OIC Secretary General participated and announced that the next meeting will be held in Jeddah, to be hosted by the OIC. It was also conveyed that the OIC was planning to organize a side event on the implementation of the resolution 16/18 on the margins of the 27<sup>th</sup> session of the Human Rights Council, to be held in September 2014 in Geneva.

28- The Commission reiterated the need to further cooperate with various stakeholders and to work closely with OIC Groups in Geneva and New York for a genuine implementation of the road map contained in HRC Res. 16/18, including provisions related to the criminalization of incitement to religious hatred and violence. The Working Group on Islamophobia and Muslim Minorities had also charted out a number of concrete proposals (enumerated in the report of the fourth IPHRC) including the preparation of a paper on achievements and challenges with respect to full and effective implementation of HRC Res. 16/18. These proposals will continue to be followed-up by the Working Group.

29- The Commission also issued a press release condemning the factually incorrect and fallacious statement by President Milos Zeman of Czech Republic about Islam, describing

the statement as a clear manifestation of incitement to hostility and violence. The Commission reaffirmed that no religion should be equated with violence and extremism and urged relevant international human rights mechanisms to openly denounce such assertions (Copy attached Annex 4).

### **Rohingya Muslims**

30- The Commission benefited from a briefing by the Department of Minority Affairs of the OIC General Secretariat, on the latest developments regarding the deteriorating human rights situation of Muslim Rohingya in Myanmar. It was noted that in addition to sporadic violence to which they are subjected, Rohingya Muslims continue to be denied their basic right to citizenship, which impedes on many of their basic rights, such as the right to education, health and non-discrimination in general. It was informed that Rohingya Muslims were even refused the right to their ethnic and cultural identity during the recently conducted national population census, which disallowed the choice of Rohingya as one of the existing ethnicities in Myanmar. The Commission was also briefed on the ongoing efforts of the OIC, in cooperation with the IDB, to initiate socio-economic development projects, starting with the construction of two hospitals in Rakhine State, which would benefit both Rohingya and other local population.

31- The Commission welcomed various OIC initiatives to address the targeting and suffering of Rohingya Muslims and for providing humanitarian assistance to Muslim populations fleeing the atrocities occurring in the country and seeking refuge and protection in neighbouring countries. However the Commission lamented the lack of unified stand in OIC countries to help and to speak out against human rights violations perpetrated against Rohingya Muslims in particular on issues such as their right to become full citizens and equal right to participate in the upcoming election of February 2015.

32- On part of the Commission, the Chairperson reported that despite several attempts, there was no response from Myanmar authorities on IPHRC's request to undertake a visit to their country. IPHRC Chairperson also reported on his recent meeting with the Myanmar National Human Rights Commission (March 2014 in Geneva), where the subject was discussed in detail and concerns of IPHRC were conveyed on various acts of discrimination against Muslim Rohingya population. Chair of Myanmar National Commission expressed readiness to continue to discuss the subject as well as to help facilitate IPHRC's visit. However, there has been no response to IPHRC's letter from this Commission so far.

33- The Commission deplored the lack of cooperation on Myanmar's side and encouraged OIC to continue to promote humanitarian and developmental projects for Muslim Rohingya to alleviate their sufferings and to provide relief against ongoing acts of discrimination and marginalization. The Commission also welcomed the appointment of Tan Sri Syed Hamid Albar, former foreign minister of Malaysia, as OIC Secretary General's Special Envoy for Myanmar and expressed hope that his rich experience and understanding of regional realities would help strengthen cooperation between OIC and Myanmar authorities for the benefit of Rohingya Muslims.

### **Situation in the Central African Republic (CAR)**

34- Amb Ibrahim, IPHRC Chairperson, briefed the Commission as well as Member States on his recent field visit to CAR, undertaken together with the OIC humanitarian affairs delegation. According to Amb. Ibrahim, the visit offered him the opportunity to personally observe and assess the ongoing critical human rights and humanitarian situation in CAR, which is an Observer state of the OIC. He expressed his deep concern on the gross human rights violation occurring in CAR mainly against the Muslim population and conveyed that the real situation was much worse and complicated than what was portrayed in the media. Continued human rights violations against civilians, destruction of properties, places of worships and institutions, mass flow of refugees towards neighboring countries, difficult living conditions in general and dire situation of internally displaced persons and refugees in particular as well as the precarious security situation were presently among the most urgent problems faced by the CAR authorities.

35- As mandated by the OIC Executive Committee, IPHRC chairperson presented his comprehensive report on human rights situation in CAR to the Commission for its consideration. The report interalia stressed the need for OIC as an Organization and its Member States in their national capacities to be more involved in the protection of the Muslim minority in CAR, which was confronted with strong anti-Muslim feelings and subjected to all sorts of human rights violations, including mass atrocities and killings. During the discussion on the findings and recommendations of the report a number of additional recommendations were added by the Commission members to strengthen the report on various related aspects. In general, the Commission welcomed the detailed report that was based on first hand information collected by the IPHRC Chair and endorsed it for submission/consideration by the 41<sup>st</sup> CFM. (Copy attached – Annex 3)

❖ **AGENDA ITEM ON ANY OTHER BUSINESS**

36- Under its permanent agenda item on “Any other business”, the Commission discussed several issues, including the launching of IPHRC Website, the preparation of information pamphlets/ brochures and establishing contacts with OIC Member States’ NHRIs and Civil Society Organizations including NGOs. The Commission also held detailed deliberations on all mandates received by the OIC Summits and CFMs, with a view to submitting mandated reports to the 41<sup>st</sup> Session of the CFM.

**IPHRC Website**

37- The Head of IT department of the OIC General Secretariat presented the basic structure of IPHRC’s website, being developed by his department, and requested feedback on how to improve it further. Commission members welcomed the presentation and thanked the IT department for its efforts. IPHRC also approved the official launching of this website, under domain name: [www.oic-iphrc.org](http://www.oic-iphrc.org); after making a number of suggestions on improving various aspects of the website. After incorporating suggestions of Commission members the website will be launched in first week of July 2014.

**Preparation of Informative Pamphlets/Brochures on IPHRC**

38- For better visibility of the work of the Commission, it was recommended to prepare booklets that include its Statute and Rules of Procedure with the aim of providing information about the mandates, objectives and activities of the IPHRC, to be distributed and disseminated during conferences and meetings at various international *fora*.

**Meeting with the Secretary General of OIC**

39- Commission Members also had an informal meeting with the OIC Secretary General H.E. Iyad Ameen Madani, who appreciated the excellent work done by IPHRC and assured his continued support for the work of the Commission. The Secretary General also assured the Commission Members for his fullest support to strengthening the IPHRC Secretariat, grant of long term visas and airport facilitation at the arrival and departure for the Commission members. Chairperson, Amb Ibrahim, and other Commission members thanked the Secretary General for his personal interest in the work of the IHRC and continued support for its smooth functioning.

## **Informal meetings with the Islamic Development Bank, Islamic Fiqh Academy and Islamic Relief UK**

40- The Commission held closed sessions with two OIC specialized organs in order to establish initial contact and exchange views on specific issues, namely the right to development and the rights of women according to Islamic teachings.

### **Meeting with IDB: Right to development**

41- The objective of the Commission's meeting was to identify possible areas of cooperation and establish channels of interaction with the IDB. During the meeting IDB provided insight on their development work, which caters for a human right based approach in responding to the marginalized segments of society who are denied their basic socio-economic rights. IDB also conveyed that human right consideration were included in its loan policies as well as given due consideration while checking the profile of beneficiaries of IDB projects in the receiving countries for different projects such as capacity building, alleviation of poverty or creation of favourable economic environment.

42- The Commission and IDB together identified possible synergies for further cooperation between them, which would cover three main pillars:

- i. Assistance to Member States individually or collectively to assess the state of implementation of RtD in the group or individual countries, and undertake gap analysis.
- ii. Mainstreaming RtD in the programs, projects and systems, by raising the state of awareness on the importance of the RtD and identifying gaps within States' policies with regard to the satisfaction and aspirations of their populations.
- iii. Modelling and launching comprehensive programs and project that respond to Member States' calls for promoting and implementing RtD.

43- The IDB expressed its readiness to have joint papers/programmes on the RtD in some OIC countries, notably in Palestine that includes cooperation on capacity development. In the framework of cooperation between the two entities, the IDB recommended that IPHRC chair should write a follow up letter to the President of IDB and request for their experts to work and elaborate joint projects on the subject. Coordinator of the WG on RtD, Ambassador Mustafa Alaei also requested Commission Members to convey to him suitable project proposals, which the Commission could take up with the IDB for joint collaboration.

### **Meeting with Islamic Fiqh Academy (IIFA): human dignity and Women rights**

44- Dr. Abduqaher, representative from the IIFA, made a detailed presentation on various human rights resolutions of the Fiqh Academy, particularly those related to human dignity and to the Rights of Women and the child in Islam. The presentation was followed by a lively interactive dialogue where Commission members exchanged views and raised questions with regard to particular Fiqh issues in these areas. Dr Abdulqahir assured that the Islamic Fiqh Academy would be happy to hold further indepth discussions with the Commission on specific issues.

45- Noting the space for greater cooperation and importance of including Islamic perspective in its deliberations, it was agreed that both institutions would hold joint seminars / symposiums on specific topics and projects in these areas with a view to defining common positions/ views that would help Member States in better understanding these issues from a holistic angle. Dr. Abdulqahir also promised to share all relevant IIFA documents/resolutions with the Commission, through IPHRC Secretariat.

### **Meeting Islamic Relief UK**

46- IPHRC also interacted with Mr. Atallah FitzGibbon, Policy & Strategy Manager at Islamic Relief UK, who made a presentation on their project “Human development and Islam”, one of the major projects being developed by his organization. The project was explained from the perspective of Maqasid Al- Sharia, and aims at helping frame the international discourse regarding human rights and Islam. The project focuses on five areas, namely: 1) developing a clear human rights discourse from an Islamic perspective, not confused by cultural considerations; 2) Child protection & gender equality; 3) Conflict transformation and prevention; 4) Environment and Islam, including a tool kit for working with communities, especially those whose environment/habitat is endangered and, 5) Islamic micro- finance.

47- It was also agreed to continue to exchange views and information on their respective fields of work as well as to cooperate through organizing joint workshops/ seminars on issues of mutual interest including through involvement of IIFA.



## **Establishing contacts with OIC NHRIs and Civil Society Organizations**

48- In accordance with Article 15 of the IPHRC Statute and in follow-up to recommendation by the 4<sup>th</sup> IPHRC Session, the Coordinator of the *Ad Hoc* Working Group on interaction between IPHRC and Member States' accredited NHRIs and Civil Society Organizations (CSOs), Amb. Abdulwahab, presented two separate drafts of guidelines on the appropriate legal framework for interaction with NHRIs and CSOs.

49- After lengthy discussion on the subject, it was decided to continue to study both set of guidelines on the relationship with NHRIs and CSOs. In the case of the Guidelines governing the IPHRC's interaction with NHRIs, the Commission decided that all Commission Members should provide their valuable views and suggestions on the draft by the end of June. After incorporating views from all commission members, Amb. Abdulwahab, will circulate a revised draft of the guidelines, which should be adopted during the next session of the IPHRC.

50- The Commission further decided to invite NHRIs from the Member States in its future symposiums / workshops, in close consultation with the host and member countries, in order to benefit from their practical experiences and expertise in dealing with the human rights issues on the IPHRC Agenda.

## **Communication with Member States**

51- A number of Member States regretted the perceived lack of communication of IPHRC with the Member States and requested the Commission to provide them with more substantive documents for greater and more meaningful interaction during IPHRC Sessions. It was also suggested to increase the number of open sessions during IPHRC meetings. Member States further expressed their desire to be more regularly updated on Commission's activities and achievements. The Commission took note of the comments made by Member States for greater and closer coordination /cooperation. Additionally, IPHRC Secretariat informed Member States that all finalized documents/session reports by the Commission have already been shared with Member States and latest documentation was made part of the documents of the 41<sup>st</sup> CFM, which are also available to all Member States. The information provided was appreciated by Member States.

❖ **CLOSING SESSION**

52- In his concluding remarks, IPHRC Chair, Amb. Mohammed K. Ibrahim, provided a detailed overview of the important issues and subjects discussed during the session as well as decisions taken by the Commission. On behalf of the Commission, he also expressed thanks to all participating Member and Observer States and requested their continued and consistent support to the work of the Commission. The Commission also issued a final communiqué that summarizes the discussions and decisions taken during the 5<sup>th</sup> Session of the IPHRC. (Copy attached – Annex 5)

53- A number of Commission Members took up the floor to thank and express profound appreciation for the excellent manner in which Ambassador M.K. Ibrahim guided Commission's work during the Session.

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**Draft Agenda**

**5<sup>th</sup> Session of the OIC Independent Permanent  
Human Rights Commission (IPHRC)**

**Jeddah, Kingdom of Saudi Arabia  
1 - 5 June 2014**

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**Item 1: Adoption of the Agenda and Program of Work**

**Item 2: Human Rights Situation in Palestine and other occupied Arab territories**

**Item 3: Civil, political, economic, social and cultural rights in OIC Member States**

- Sub item a: Human Rights of Women
- Sub item b: Rights of the Child
- Sub item c: Right to Development
- Sub item d: Human rights education

**Item 4: Human Rights situations and issues on the OIC Agenda / mandates from CFM**

- Sub item a: Combating Islamophobia and incitement to hatred and violence
- Sub item b: Situation in the OIC Member States
- Sub item c: human rights Situation of Muslim minorities and communities in non- member States including Myanmar and Central African Republic
- Sub item d: Framework for monitoring human rights situation in Jammu and Kashmir
- Sub item e: Negative Impact of Economic and Financial Sanctions

**Item 5: Report of the Session and Provisional Agenda for next Session**

**Item 6: Any other business**

- Sub item a: IPHRC website
- Sub item b: Establishing contact and framework agreement for interaction with NHRIs and Civil Society including NGOs
- Sub item c: Human rights research and studies
- Sub item d: Networking with Member States and other international and regional organizations

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## Draft Program of Work

5<sup>th</sup> Session of the OIC Independent Permanent  
Human Rights Commission (IPHRC)

Jeddah, Kingdom of Saudi Arabia  
1 - 5 June 2014

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### Day 1

<b>10:00 – 11:00 Hrs.</b>	<b>Meeting I</b>	<b>[Open]</b>
10:00- 10:10 Hrs.	Recitation of verses from the Holy Qur'an	
10:10- 10:20 Hrs.	Opening Remarks by the Chair of the IPHRC	
10:20 – 10:40 Hrs.	Adoption of the Agenda and Work Program	
10:45 – 12:15 Hrs.	Discussion and decision on Working Group Modalities	
12:15 – 1300 Hrs.	Presentation of Website and its formal launching	
<b>13:00-14:00 Hrs.</b>	<i>Prayer/Lunch Break</i>	
<b>14:00 – 17:00 Hrs.</b>	<b>MEETING II</b>	<b>[Open]</b>
	Human Rights Situation in Palestine and other occupied Arab territories	

### Day 2

<b>09:00 – 12:00 Hrs.</b>	<b>MEETING III</b>	<b>[Open]</b>
	Civil, political, economic, social and cultural rights in OIC Member States: Rights of Women and of the Child	

12:00 – 13:00 Hrs. *Prayer/Lunch Break*

13:00 – 16:00 Hrs. **MEETING IV** [Open]

Human Rights Situations and Issues on the OIC  
Agenda: Islamophobia and Muslim Minorities

**Day 3**

09:00 – 12:00 Hrs. **MEETING V** [Open]

Civil, political, economic, social and cultural rights in  
OIC Member States – Continued: Right to Development

12:00 – 13:00 Hrs. *Prayer/Lunch Break*

13:00 – 16:00 Hrs. **MEETING VI** [Closed]

13:00 – 14:00 hrs. Informal meeting with Islamic Fiqh Academy  
15:00 – 16:30 hrs. Informal meeting with Islamic Development Bank (TBC)

**Day 4**

09:00 – 12:00 Hrs. **MEETING VII** [Closed]

Consideration of outstanding Mandates by the CFM  
Including Islamophobia, the human rights Situation of  
Muslim minorities in Myanmar and Central African  
Republic; Framework for monitoring human rights  
situation in Jammu and Kashmir and the Negative  
Impact of Economic and Financial Sanctions

12:00 – 13:00 Hrs. *Prayer/Lunch Break*

13:00 – 16:00 Hrs. **MEETING VIII** [Closed]

Discussion on the proposed draft framework for interaction  
with NHRIs and Civil Society including NGOs; and  
Networking with Member States and with other international  
and regional organizations.

Day 5

**09:00 - 10:45 Hrs.**

**MEETING IX**

**[Closed]**

Report of the Session and Provisional Agenda for the next Session

**10:45 - 11:00 Hrs.**

***Coffee Break***

**11:00 - 12:00 Hrs.**

***CLOSING CEREMONY***

**[Open]**

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*OIC/IPHRC/REP/ECO-SANC/2014/CFM-41*

**OIC INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION  
(IPHRC)**

**REPORT ON:**

**THE NEGATIVE IMPACTS OF ECONOMIC AND FINANCIAL SANCTIONS ON  
THE FULL ENJOYMENT OF HUMAN RIGHTS OF PEOPLE OF THE OIC  
TARGETED COUNTRIES**

**PRESENTED TO  
THE 41<sup>ST</sup> SESSION OF THE  
OIC COUNCIL OF FOREIGN MINISTERS (CFM)**

*JEDDAH, KINGDOM OF SAUDI ARABIA  
18 – 19 JUNE 2014*

# IPHRC Report

On

*The Negative Impacts of Economic and  
Financial Sanctions on the Full Enjoyment of  
Human Rights of People of the OIC Targeted  
Countries*

APRIL, 2014



## **A - Introduction**

In pursuance of the CFM resolution No. 21/40-POL calling the Independent Permanent Human Rights Commission (IPHRC) "to undertake a comprehensive study on negative impacts and consequences of economic and financial sanctions on enjoyment of human rights by people of the OIC targeted Member States" and to present accordingly an in-depth report to the Council of Foreign Ministries at its Forty-first Session; the IPHRC prepared the present report on the issue and transmitted to the meeting of CFM held in Jeddah, on 18 – 19 June 2014.

A note Verbal was sent to all Member States requesting them to provide their views on the negative impact of the economic and financial sanctions enabling the IPHRC to present a comprehensive report that is based on all round views. Pending the receipt of the views of the Member States regarding the impact of sanctions on the enjoyment of human rights and their experiences, the IPHRC embarked on preparing this report addressing, in brief, different dimensions involved the issue of sanctions, based largely on international law particularly Human Rights Law in order to help contributing to the corresponding international environment in which the deep concerns of the OIC Member States regarding the impact of sanctions on the enjoyment of human rights are fully and effectively addressed.

The IPHRC will provide follow-up reports on the subject in due course, reflecting further the views and experiences of the Member States on the issue.

## **B - General observation**

The Human Rights system is an indivisible whole. It is insoluble construct and interdependent in nature. The concept of indivisibility not specifically meant for diverse range of human rights from political and civil, to economic, social and cultural, the notion of shared responsibility and mutual accountability will also be an indispensable component of the implementation of human rights for all worldwide.

The international community is currently working to shape and develop the framework of the post -2015 Development Agenda. Several factors and parameters are being discussed at length in an effort to design a successor framework in which practical goals are outlined and lines of shared responsibility and mutual accountability are clearly drawn. Forums across regions and at the international level are carefully considering the multidimensional agenda for development beyond 2015. To summarize them, they identified the notion of indivisibility within the new geometry of power and relationship and recognized the fact that in the process of globalization, the capacities and power of states for realizing the goals of sustainable development are limited and they are no longer the only actor in this domain. The experts emphasize that although the primary responsibility for devising and implementing development policies and making use of "maximum available resources" rest with the states, the decisions and policies beyond borders will also affect heavily on the capacity of and power of states in this domain.

The proliferation of actors at the international level playing crucial role in development policies and decision- making processes brings new dimensions to development agenda and associated accountability system at the international level. In the current era of accelerated globalization,

these actors include national and local governments and other state institutions, business enterprises, third countries, intergovernmental institutions and multilateral development agencies and financial institutions<sup>1</sup>. Policies designed and implemented by these actors including on imposing sanctions affect in many ways the pace of progress in development of individual member states, within the web of global social and economic institutions, which in turn will have their impact on the enjoyment of human rights including the right to development. The domestic policies, laws and decisions made within a specific country or the measures taken by an international body in the form of sanctions may infringe upon the ability of other countries to mobilize resources for the realization of the human right to development.

Thus, the international community including regional organizations must consider the right to development and the development processes at the national and international level as well as the obstacles lying ahead such as sanctions within a multidimensional agenda. In this context, the concept of “shared responsibility” and its indivisible component i.e. mutual and multidimensional accountability are central to every global development framework at any stage. Various international forums including the Summit on the Millennium Development Goals asserted this essential component of global development agenda. In the Millennium Declaration, the General assembly stipulates the following:

*“Responsibility for managing worldwide economic and social development, as well as threats to international peace and security, must be shared among the nations of the world and should be exercised multilaterally. As the most universal and most representative organization in the world, the United Nations must play the central role.”*

The Declaration further reiterates the following:

*“...We are committed to making the right to development a reality for everyone and to freeing the entire human race from want.”*

A key implication to recognizing the “shared responsibility” and “commitment to make the right to development a reality for everyone” is the obligation by all states, international institutions and private corporations to refrain from implementing bilateral or multilateral policies and measures which will create conditions that may restrict the ability of other states to make use of “maximum available resources” in the benefit of the realization of development goals and the enjoyment of human rights by all peoples. Placing this obligation within the human rights context, requires the international community including global and regional governance institutions to expand the current spectrum of human rights accountability system to ensure the violation of human rights including the right to development by the states beyond their borders or by international and private sectors are dealt with on the basis of human rights norms and standards.

In view of the above, sanctions and unilateral coercive measures put in place by some states against other states or by a multilateral body such as the relevant organs of the UN that have the effect of impairing or nullifying the enjoyment of human rights of individuals and peoples must be viewed as violation of human rights and treated accordingly.

The Vienna Declaration and Program of Action in its Para 31 declare the following:

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<sup>1</sup> -Who will be accountable, published by OHCHR, Geneva, 2013, P.18

*“31. The World Conference on Human Rights calls upon States to refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of the human rights set forth in the Universal Declaration of Human Rights and international human rights instruments, in particular the rights of everyone to a standard of living adequate for their health and well-being, including food and medical care, housing and the necessary social services. The World Conference on Human Rights affirms that food should not be used as a tool for political pressure.”*

The Foreign Ministers of the Organization of Islamic Cooperation during the Thirty-ninth Session of the CFM and through the Resolution No.22/39-POL expressed that they are:

*“Gravely concerned over the application of economic and financial sanctions against some OIC members, with all their negative implications for the socio-economic activities and economic and social development of those states, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under their jurisdiction;”*

The Foreign Ministers further:

*“Condemn the continued imposition of economic sanctions by certain powers as tools of political or economic pressure against some Islamic countries, with a view to preventing these countries from exercising their right to decide of their own free will, their own political, economic and social systems.”*

Owing to their coercive nature, the economic and financial sanctions not in accordance with International law and Human Rights Law, will effectively hinder the targeted states from disposing of their national resources and consequently cause the failure to design and implement development policies. This situation will inevitably lead to the infringement of human rights of the peoples and individuals in the targeted states.

The Human Rights Council of the General Assembly of the United Nations in its resolution A/HRC/RES/24/14 dated 8 October 2013 declares the following:

*“Reaffirming that unilateral coercive measures are a major obstacle to the implementation of the Declaration on the Right to Development,”*

Due to the deep negative impact of the sanctions on the enjoyment of human rights and humanitarian situations, the Resolution went on to express that the Human Rights Council:

*“ 3. Condemns the continued unilateral application and enforcement by certain powers of such measures as tools of political or economic pressure against any country, particularly against developing countries, with a view to preventing these countries from exercising their right to decide, of their own free will, their own political, economic and social systems;”*

### **C - Legal aspects**

This study seeks to review, in the first place, briefly, the legal status of enforcing sanctions within the United Nations system. It further explores the situations in which these sanctions become illegitimate and counterproductive, given the parameters set forth by the Charter of the United Nations and other sources of international law. The manifestation of various aspects of violation of Human Rights taking place as a result of illegitimate sanctions is also the focus of this study which will be followed by a number of proposals to be considered by the IPHRC for sharing them, through the CFM, with the relevant bodies of the international community.

A wide range of legal documents and multilateral declarations within the United Nations and other organizations address the question of sanctions in different ways. Many of them particularly within the South organizations consider, in one way or another and with different strengths, in a positive or negative form, measures including economic and financial sanctions which have the effect of infringement on or nullifying the enjoyment of human rights by peoples and individuals, as unlawful and illegal. These measures have been rejected and at times, as shown above, condemned in different tones.

These documents include the Charter of the United Nations, Bill of Rights, core international Human Rights instruments, General Comments of Treaty Bodies, UN Declarations, multilateral Declarations and the outcome of the UN World Conferences, Decisions of the ICJ and other international tribunals (in the form of rejecting the violation of “peremptory norms” or “erga omnes obligations” or “jus cogens” and the soft laws including resolutions in the UN system and other organizations.

The content of the documents mentioned above may apply on both the sanctions imposed by the Security Council or the Unilateral Coercive Measures.

For the purpose of this report and to observe briefness, the focus of the study will be on just one reference under each document. Other references could be tackled within the Comprehensive Report.

#### **1- Sanctions under the Charter of the United Nations**

There is no reference to “sanction” in the Charter in this domain. The term adopted by the Charter in Article 41 is “MEASURES”. This Article is as follows:

*“Article 41: The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations”*

What matters most in this context is that this Article is about the legal action of the United Nations, within the parameters expounded in the following Articles in the Charter and with the purpose of combating forces actually threatening the international peace and security. Clearly, it does not

apply to the “measures” violating the content of the Article 1(3) declaring the respect and promotion of Human Rights as Purposes of the United Nations. Under the Law of Treaties, no decision by an organ of the United Nations can nullify the purposes enshrined in a treaty such as Charter.

Furthermore, any economic, financial and commercial measure or sanction which contravenes the obligations committed by the member states in the Article 55 and 56 of the charter referring to the observation of Human Rights which have the effect of the violation of “*erga omnes obligations*” and ‘*peremptory norms*’ are considered unlawful and must be rejected.

The pledges committed by the member states in Article 56 to uphold Human Rights are in the following form:

*‘All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.’*

And the purposes outlined in Article 55 read as follows:

*“Article 55: With a view to the creation of conditions of stability and well-being which are necessary for Peaceful and friendly relations among nations based on respect for the principle of equal rights and Self-determination of peoples, the United Nations shall promote:*

- a) Higher standards of living, full employment, and conditions of economic and social progress and development;*
- b) solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and*
- c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion”*

There are other references in the Charter that imply the illegality of “measures” or sanctions with the negative impacts on the enjoyment of Human Rights by peoples and the individuals. These could be dealt with in the Comprehensive Report on the issue at hand.

Besides, According to the Article 24(2) of the Charter, all decisions of the Security Council (and that of the member states) should not be against the Purposes and Principles of the Charter of the United Nations.

Article 24 reads as follows:

*“2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII”.*

In a nutshell, although the sanctions imposed by the Security Council are legitimate based on the content of the Article 41 of the Charter as one of the basic sources of International Law, but it will not remain so if within a protracted period of time lead to the infringement of human rights and fundamental freedoms in the targeted states. The issue of legitimacy of sanctions imposed by the Security Council will be tackled under the CESCR’s General Comments No.8

## **2. Unilateral Coercive Measures**

The concept of “unilateral Coercive Measures” usually refers to economic measures taken by one state to compel another state to effect changes in its policies, without the clear and explicit backing of the international community, often represented by the United Nations.<sup>2</sup> Such Measures, legislative, or otherwise include economic, trade, financial, travel sanctions and asset freezes in relation to certain targeted individuals, companies and institutions of a state.

Some consider the Unilateral Coercive Measures as illegitimate, *per se*, mainly because they are imposed out of the United Nations system which is the broadest international organization with the duty of maintaining international peace and security. Yet there exist almost consensus among the members of international community that these measures are flagrant violation of Human Rights owing to its wide impact on living standards of vast populations and infringement of their fundamental human right. The relevant resolution of the General Assembly of the United Nations on the issue of US embargo on Cuba is but one example. These measures are also condemned by the GA resolutions, generally, which have been referred to earlier in this study.

## **3. Bill of Rights**

International Human Rights law considers states and national governments as having primary responsibility for fulfilling their commitments under the relevant international instruments. They have an obligation, for example, under the International Covenant on Economic, social and cultural “*to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*”

Fulfillment of this obligation requires the member states to exercise freely their right to self-determination and the right to dispose of all their natural wealth for the benefit of the realization of the right to the development.

Article 1(2) of both Covenants within the UN Bill of Rights accentuates these rights in the following terms:

*“1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

*2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based*

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<sup>2</sup> -Ariranga G. Pillay, Chairperson of the UN Committee on Economic, Social and Cultural Rights, Speech in the HRC Seminar on the Unilateral Coercive Measures held in Geneva on April 5, 2013

*upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”*

The last phraseology in Article 1(2) is of critical importance in rejecting measures under all circumstances, unilateral or multilateral, with the effect of restricting the member state’s ability to mobilize natural wealth and national resources as means of fulfillment of its obligations to realize Human Rights specially the right to development. It implies, in categorical terms, that sanctions are illegal in case their practical results cause deprivation of the targeted people from exploiting their resources for the objectives of development.

Although the core premise in this question is the illegality of sanctions incompatible with the human rights norms and standards, yet shifting the focus from the content of sub para (2) to the very significant determinant of “international cooperation and assistance” which is the subject of the General Comment of the CESCR, will turn the negative obligation into positive one. It implies that it is a legal obligation for the wealthier states to take steps, through international cooperation and assistance, to assist the developing countries to reach their development goals.

#### **4. Treaty Bodies General Comments**

The CESCR in its General Comment no.3 on the nature of the states obligations under the International Covenant on Economic, Social and Cultural Rights stipulates that:

*“14. The Committee wishes to emphasize that in accordance with Articles 55 and 56 of the Charter of the United Nations, with well-established principles of International law, and with the provisions of the Covenant itself, **international Cooperation for development and thus for the realization of economic, social and Cultural rights are an obligation of all States.** It is particularly incumbent upon those States which are in a position to assist others in this regard. The Committee notes in Particular the importance of the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986 and the need for States parties to take full account of all of the principles recognized therein. It emphasizes that, in the absence of an active programme of international assistance and cooperation on the part of all those States that are in a position to undertake one, the full realization of economic, social and cultural rights will remain an unfulfilled aspiration in many countries. In this respect, the Committee also recalls the terms of its general comment No. 2 (1990).”*

The logical corollary of this interpretation is that, not only the wealthier states have the negative obligation of refraining from any coercive measure with the negative impact on the enjoyment of Economic and Social rights, but also they are under legal commitment to assist the developing countries, through international cooperation and assistance, in different forms and contexts, in realizing their development goals.

The CESCR in its General Comment No.8 addresses the question without differentiating and distinguishing between the imposition, maintenance or implementation of sanctions by the

Security Council, regional organizations or states. The main focus of this Comment is on the need to strict observation of and respect to human rights. This is referred to as an obligation on the part of all actors involved.

The General Comment No.8 on “*the relationship between economic sanctions and Economic, Social and Cultural Rights*” provides that:

*1. Economic sanctions are being imposed with increasing frequency, internationally, regionally and unilaterally. The purpose of this general comment is to emphasize that, whatever the circumstances, such sanctions should always take full account of the provisions of the International Covenant on Economic, Social and Cultural Rights. The Committee does not in any way call into question the necessity for the imposition of sanctions in appropriate cases in accordance with Chapter VII of the Charter of the United Nations or other applicable international law. But those provisions of the Charter that relate to human rights (Articles 1, 55 and 56) must still be considered to be fully applicable in such cases.*

**11. The second set of obligations relates to the party or parties responsible for the imposition, maintenance or implementation of the sanctions, whether it is the international community, an international or regional organization, or a State or group of States.** *In this respect, the Committee considers that there are three conclusions which follow logically from the recognition of economic, social and cultural human rights.*

*14. Third, the external entity has an obligation “to take steps, individually and through international assistance and cooperation, especially economic and technical” in order to respond to any disproportionate suffering experienced by vulnerable groups within the targeted country.*

The very crucial element which is cross-cutting almost in all paragraphs of this General Comment is that all subjects of international law, from states to international organizations particularly the Security Council are legally under an obligation to respect and protect human rights, though it accepts that the sanctions in all cases and circumstances hampered the enjoyment of human rights and fundamental freedoms of many peoples.

## **5. United Nations Declarations**

The landmark Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations (General Assembly resolution 2625 of 1970) is one of the most important UN documents which refer also to the question of economic sanctions within the requirements of international law.

It articulates the following:

*“No State may use or encourage the use of economic political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.”*



*“Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.”*

## **6. Resolutions (soft law)**

Ample resolutions were adopted within the United Nations, Non-Aligned Movement, Organization of Islamic Cooperation and others addressing the question of sanctions from different perspectives. While some rejecting the “Unilateral Coercive Measures” *per se*, as a political attempt to influence the policies of the targeted states or even change a specific regime, others condemn sanctions that have the effect of impairing or violating fundamental human rights within vast populations in various countries. Although Resolution A/HRC/RES/24/14 has already been the focus of this debate, it is being discussed again for other dimensions which are of critical importance to the question of sanctions. The HRC Resolution in the preamble part stresses the Following:

*“Deeply concerned that, despite the resolutions adopted on this issue by the General Assembly, the Human Rights Council, the Commission on Human Rights and at United Nations conferences held in the 1990s and at their five-year reviews, and contrary to norms of international law and the Charter, unilateral coercive measures continue to be promulgated, implemented and enforced by, inter alia, resorting to war and militarism, with all their negative implications for the social-humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,”*

In the first Operative part, the Resolution again stresses that:

*“Calls upon all States to stop adopting, maintaining or implementing unilateral coercive measures not in accordance with international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development;”*

Two points are crucial which bring new dimensions to the question at hand.

First is the relationship between sanctions on one hand and international peace and security on the other. The HRC Resolution puts the issue of unilateral coercive measures in the context of **war and militarism**. In the view of the Human Rights Council, promulgating, implementing and enforcing unilateral coercive measures is a tool for waging war and militarism against targeted peoples which have the effect of negative implications for the social-humanitarian activities and economic and social development of developing countries. It is also believed by some civil society organizations that comprehensive sanctions against the whole population for a protracted period of time such as the situation in Iraq in 1990’s constitute crime against

humanity. In their views sanctions of this kind, because of their aggressive nature also constitute a serious threat to international peace and security.

Second, the Resolution highlighted also the extraterritorial effects of the sanctions particularly for the third countries. It is particularly important because extraterritorial application of domestic laws will affect negatively the sovereignty, the right of free trade, right to self-determination and equality among nations. It could bring a rupture in the whole international economic, financial and trade system and creates negative impacts for the development of the developing countries in general and infringe upon, indiscriminately, the human rights of a vast population of a given country.

## **7. International Jurisprudence and decisions of International Tribunals**

A wide range international legal institutions and courts referred to the principles of international law in the process of investigations and while making judgments on the cases referred to them. What could be inferred as a common denominator in all applicable cases is their emphasis on the obligation of all states and other subjects of international law to observe “human rights”, “erga omnes obligations”, “peremptory norms”, “jus cogens” or “general principles of humanity”. This obligation is applicable in all circumstances, whether for example; the sanctions are imposed by a particular state or states or an international or regional organization, or whether a particular state or states are the party to a particular Human Rights international instrument.

The case in point could be the ICJ decision on “Barcelona Traction” in which the Court emphasized on the observation of “erga omnes obligations” in all circumstances by all nations.<sup>3</sup>

A number of cases have been investigated by the international or even regional tribunals by virtue of which the concerned parties are ordered to observe human rights and fundamental freedoms beyond their borders. The ICJ decision on the question of “Partition Wall” is one of them. In this context, through the General Comment No.31 on the nature of the obligation of Member States under Article 1(2) of the International Covenant on the Civil and Political Rights, the Human Rights Committee reiterates the urgency of the respect to Human Rights and fundamental freedoms by states beyond their borders. This legal Comment could be applied to different situations in which human rights of a particular people or individuals are violated by virtue of extraterritorial measures, economic sanctions or otherwise.

Furthermore, legally speaking, the implementation of coercive measures with aggressive nature in the form of comprehensive sanctions against the whole population and individuals, in an indiscriminate manner, is an act of collective punishment. This is in total contradiction with the general principles of law, and the principles of humanity, justice and fundamental human rights

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<sup>3</sup> -Barcelona Traction, Light and Power Company, Ltd., I.C.J Reports 1970 (The Hague: I.C.J., 1970), P. 32

such as the right to life and the right to food and health. These rights form part of “*peremptory norms*” and “*jus cogens*” whose violation constitute the “*State Responsibility*”

“Draft Articles on Responsibility of States for Internationally Wrongful Acts” which has been adopted by the International Law Commission clearly stipulate the notion of State Responsibility in its Articles 26, 40 and 50. In these Articles, the “DARS” holds those states accountable that violate “peremptory norms of general international law” and “Human Rights” in the form of Countermeasures or otherwise.

Those Articles are as follows:

*Article 26 - Compliance with peremptory norms:*

*Nothing in this chapter precludes the wrongfulness of any act of a State which is not in conformity with an obligation arising under a peremptory norm of general international law.*

*Article 40 - Application of this chapter:*

- 1. This chapter applies to the international responsibility which is entailed by a serious breach by a State of an obligation arising under a peremptory norm of general international law.*
- 2. A breach of such an obligation is serious if it involves a gross or systematic failure by the responsible State to fulfill the obligation.*

*Article 50 - Obligations not affected by countermeasures:*

*1. Countermeasures shall not affect:*

- (a) the obligation to refrain from the threat or use of force as embodied in the Charter of the United Nations;*
- (b) obligations for the protection of fundamental human rights;*
- (c) obligations of a humanitarian character prohibiting reprisals;*
- (d) other obligations under peremptory norms of general international law.*

#### **D - The negative impact of sanctions on the enjoyment of human rights**

For the purpose of the Comprehensive Report we need to receive the views and experiences of the member states of the OIC in this domain. Those views and experiences are crucial in identifying the patterns of enforcing sanctions by the sender state or states in the unilateral or multilateral form as well as the areas of impact on the enjoyment of human rights. Before that and pending the receipt of those from the Member States, the primary deliberation on the general patterns of the impact of sanctions on human rights might help clarifying the various dimensions of it.

Comprehensive sanctions and interruption of economic, trade, financial and international relations for a protracted period of time, particularly when not assessed and monitored, will cause shrinking national income which, in turn, leads to the violation of human rights of peoples and individuals in the following grounds:

- i. Considerable decline in the family income and individuals propelling them into poverty. And this is violation of the right to decent life.
- ii. Reduction in the job opportunities as a result of liquidation and bankruptcy of the factories and the production units owing to the interruption of international financial, trade and economic relations with the targeted state or states. Also the oppressive deprivation of the peoples concerned from the disposition of their means of subsistence has a crucial role in this regard.
- iii. Cumulative pressure on the vulnerable groups such as women, children, elderly, etc. and violation of their rights.
- iv. Increasing poverty arising from the intersection discrimination which will lead to the growing inequalities between men and women and other vulnerable groups.
- v. General decline in the living standards and social security particularly in the areas of right to life, health and education. One of the most important impacts of sanctions in this domain is the imposition of limitations on the government's ability to provide sufficient food and drugs especially for children. Malnutrition and scarcity in basic drugs needed to maintain the minimum requirements of a human life for the peoples and individuals in the time of sanctions, will lead to the death of children and elderly.
- vi. Brain migration and its detrimental consequences for the universities and scientific institutions and corresponding decline of knowledge among the students are among the worst impacts of sanctions which have long negative effects on the whole life of the general population of the targeted countries.
- vii. Violation of political and civil rights particularly during Smart Sanctions is also one of the possible consequences of this kind of measures. In these circumstances, normally, the political and civil rights of some individuals such as the right to movement and right to property are violated. The main cause for violation is the lack of fair trial and impartial investigation by a competent court which is the only legal basis for giving a lawful judgment to condemn the individuals and groups. Normally in the sanctions regimes, the human rights standards enshrined in the Universal Declaration of Human Rights and other applicable international instruments do not count.

### **E - Assessment and evaluation of sanctions**

Placing the sanctions in Human Rights context, one can find that there is no system of assessment and evaluation of their impacts on the life of the targeted people. This will lead to an unhindered application and imposition of sanctions by the sender state on the targeted states. The international community should embark on developing such system, if the international human rights standards were to be applied equally and without discrimination for all peoples and individuals across the globe.

Prof. Dr. Marc BOSSUYT, the member of the former UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the current President of the Constitutional Court

of Belgium, explained, during the HRC Panel on the adverse consequences of economic sanctions on the enjoyment of Human Rights which was held in Geneva in 5 April, 2013, the terms of the system of proposed assessment. This system is in fact considered as the standard to verify the legitimacy of the imposition of sanctions, unilateral or by the Security Council. The following are the terms of the proposed standard:

*“(i) Are the sanctions imposed for valid reasons?”*

*Sanctions under the United Nations system must be imposed only when there is a threat of or actual breach of international peace and security. Sanctions should not be imposed for invalid political reasons and should not arise from or produce an economic benefit for one State or group of States at the expense of the sanctioned State or other States.*

*“(ii) Do the sanctions target the relevant parties?”*

*Sanctions should not target civilians who are not involved with the threat to peace or international security, nor should they target, or result in collateral damage to “third party” States or peoples.*

*“(iii) Do the sanctions target the relevant goods or objects?”*

*Sanctions should not interfere with the free flow of humanitarian goods and they should not target goods required to ensure the basic subsistence of the civilian population, nor essential medical provisions or educational materials of any kind. The target must have a reasonable relationship to the threat of or actual breach of peace and international security.*

*“(iv) Are the sanctions reasonably time-limited?”*

*Legal sanctions may become illegal when they have been applied for too long without meaningful results. Sanctions that continue for too long can have a negative effect long after the wrongdoing ceases.”*

Mr. Bossuyt in the same Panel termed the whole theory behind economic sanctions as “fallacious”.

### **F – Challenges and recommendations**

The international community is facing the dilemma of sanctions in that the methods, patterns of implementation and the consequences, being contrary to the purposes and principles of the United Nations and principles of international law in many cases, pose serious challenges and Threats to the human Rights standards and their enjoyment by the peoples and individuals in targeted countries and beyond. Unless these challenges are deliberated in an impartial manner and the current asymmetrical political structures are adjusted, the negative impacts arising from sanctions on the enjoyment of human rights continue unabated and the sender or sender states

continue their policy of pressure on developing countries in the name of the shared values. For the purpose of this report, the challenges the international community is facing concerning illegal sanctions could be summarized briefly around the following factors;

### **1. The nature of international relations**

The purpose of unilateral coercive measures and some kind of other sanctions is to compel targeted states to change their policies in order to serve the interests of sender state or states as mentioned by the Chairperson of the CESCR. In other instances, the purpose of those imposing sanctions on targeted states might pursue the regime change or otherwise by pressurizing the general population.<sup>4</sup> And this is politicization of international law including Human Rights law and pursuance of “Real Politik” at the cost of shared global values and principles. In fact, politicization of international law runs against the letter and spirit of the Article 28 of the Universal Declaration of Human Rights. The content of this Article implies the need to bring about harmony and synergy among the various components of the UN system in their actions on peace and security, Human Rights and development within a global order in order to serve the aspirations of the human kind. In contrast, politicization tends to misplace some selected provisions of the Charter and operationalize them against others.

### **2. Lack of structural system for assessment and evaluation of sanctions**

Sanction Regimes, unilateral or otherwise, lacks structural system of assessment, evaluation and monitoring in the context of human rights. Sanctions, if imposed legitimately, needs indicators and objective criteria to determine, in the first place, its legitimacy particularly as regards the basis of “measures” under Article 41 of the Charter. Further, the criteria should ascertain whether the implementation processes and consequences are in full compliance with the purposes and principles of the Charter of the United Nations including human rights standards enshrined in Article 1(3), 55 and 56. General Comment No. 38 of the CESCR has also made a particular emphasis on this challenge. This study **recommends** that the Advisory Committee of the Human Rights Council, pursuant to the HRC Resolution 24/14, and the panel discussion held in 5 April 2013, embarks on identifying the elements needed to develop a structural system for assessment and evaluating the processes and consequences of sanctions. **The IPHRC Working Group on the Right to Development** may also be tasked with the deliberation on this issue and report the result of the proceedings to the IPHRC plenary in order to facilitate this recommendation.

### **3. Lack of accountability system for violation of human rights beyond borders through extraterritorial sanctions.**

As emphasized earlier in this study, there occurred global transformative changes in international relations particularly in the sphere of economic development. States are no longer

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<sup>4</sup> -Statement of Prof. Dr. Marc Bossuyt in the panel discussion on the Adverse Consequences of Economic sanctions on the Enjoyment of Human Rights, Para. 4, Geneva, April, 2013

the sole influential actor in shaping the development framework and the ensuing realization of economic and social rights within an accelerated globalization. The proliferation of actors at the international level playing crucial role in development policies and decision- making processes brings new dimensions to development agenda and associated accountability system at the international level. In the current era of accelerated globalization, these actors include national and local governments and other state institutions, business enterprises including TNC's, third countries, intergovernmental institutions and multilateral development agencies and financial institutions.

The international Community, therefore, should give deeper meaning to the transnational dimensions of accountability and hold those responsible for violation of human rights beyond their borders through imposing comprehensive economic and financial sanctions against economic foundations of the targeted states. States must bear responsibility for the human rights impacts their domestic decisions, policies and legislations may have beyond their borders. By the same token, the international organizations including financial and economic institutions also must accept responsibility for their performance causing violation of human rights in the targeted states. To concretize commitments and accountability system, the international experts suggest 3 constituent pillars namely: responsibility, answerability and enforceability.<sup>5</sup> These elements would help developing structural accountability system for holding those imposing illegitimate sanctions accountable. The first and foremost criteria for legitimacy are the full compliance with human rights standards.

This study also **recommends** that an accountability system is defined based on the Human Rights criteria in the sphere of sanctions. One specific recommendation in this context is that the performance of states, unilaterally and multilaterally, in the area of sanctions be scrutinized and monitored within the HRC mechanism of Universal Periodic Review (UPR) and the issue of evaluation and monitoring sanctions be part of the Agenda of relevant UN bodies within the Human Rights Context.

The whole purpose of these recommendations is to match the international cooperation enshrined in the OIC documents and Article 13, 55 and 56 of the Charter of the UN as well as the General Comment No.2 of the CESCR with the share sense of responsibility in the sanction regimes.

Finally, the IPHRC **recommends** that a representative or representatives of the Commission participate in the deliberations of the HRC Advisory Committee when the latter takes up consideration of the issue of sanctions entrusted by the HRC by virtue of the Resolution 24/14, with the view to propose its recommendations to the Committee on the issue at hand. The HRC resolution also requested the OHCHR to organize a workshop on the impact of the application of unilateral coercive measures on the enjoyment of Human Rights and present the report thereon to the 27<sup>th</sup> session of the HRC (September 2014). **It is highly recommended** also to participate in that event.

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<sup>5</sup> -Who will be accountable? Human Rights and the Post-2015 Development Agenda, Office of the High Commissioner for Human Rights, Geneva, P.10



*OIC/IPHRC/REP/CAR/2014/CFM-41*

**OIC INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION  
(IPHRC)**

**REPORT ON:**

**THE HUMAN RIGHTS SITUATION IN  
THE CENTRAL AFRICAN REPUBLIC  
(CAR)**

**PRESENTED TO  
THE 41<sup>ST</sup> SESSION OF THE  
OIC COUNCIL OF FOREIGN MINISTERS (CFM)**

*JEDDAH, KINGDOM OF SAUDI ARABIA  
18 – 19 JUNE 2014*



**OIC INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION  
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**REPORT ON:**

**THE HUMAN RIGHTS SITUATION IN  
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At the end of its Expanded Emergency Meeting at Ministerial Level on the Situation in the Central African Republic on 20 February 2014, the Executive Committee deliberated on the escalating violence, cleansing of Muslims, destruction of mosques and mass exodus of Muslims in the Central African Republic – an Observer State in the OIC. In order to stem the tide of the violence, sufferings, gross violation of human rights, as well as to assist in the effort to return the country to stability and peaceful co-existence between the various ethnic and religious communities in the country, the Executive Committee made several recommendations, one of which was:

*“IPHRC to examine the human rights situation in the Central African Republic and present concrete recommendations to the Council of Foreign Ministers towards addressing the issue in an effective manner”<sup>6</sup>*

In response to the request by the Executive Committee, Dr. Cheikh Tidiane Gadio, a former minister in Senegal, was appointed OIC’s Special Representative to CAR. The Special Representative led an OIC Ministerial delegation to the Central African Republic on solidarity and assessment mission from 28 April – 1 May 2014 in which the IPHRC was supposed to be represented, but the IPHRC representative could not take part owing to administrative and logistical difficulties. In the circumstance, the facts on which the Commission’s based its observations and recommendations in this report, were not from primary sources, but reliable reports from the UN Secretary-General, Office of the UN High Commissioner for Human Rights, the African Union, various UN humanitarian agencies, as well as on-the-spot report of international NGOs like Amnesty International and Human Rights Watch. As at 18 March 2014, there were “more than 50 humanitarian organizations working in CAR with offices in Bangui”<sup>7</sup> and most of these organizations rendered similar reports of massive human rights violations in the country, especially targeted killings of Muslims since January 2014.

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<sup>6</sup> Paragraph No. 8 of the Final Communiqué of the Expanded Emergency Meeting of EXCOM, 20 February, 2014

<sup>7</sup> Central African Republic: Who has a Sub-Office/Base: OCHA Report 20140318

## II BACKGROUND

The Central African Republic is a landlocked country in Central Africa. It is bordered by Chad Republic in the north, Sudan in the east, South Sudan in the east, the Democratic Republic of Congo and the Republic of Congo in the south, and Cameroon in the west. CAR has an area of about 620,000 square kilometres and a population of about 4.5 million people. 80% of the people in CAR are Christians, some of whom practice traditional religion. About 15% of the population before the current crisis in the country was Muslims.

Since its independence in 1960, CAR has never had a prolonged period of political stability. The country's first President, David Dacko was in office for only six years before he was ousted by his military chief, Jean-Bedel Bokassa – who declared himself an Emperor – with the blessing of France, and used one-third of the country's budget for the coronation ceremony. Bokassa's regime was that of absolute dictatorship, characterized by widespread torture and extrajudicial killings. At the height of his dictatorship, he became an embarrassment to even the colonial power that made him president, and in 1979 he was toppled and replaced by his predecessor, David Dacko, who was in turn ousted by Gen. Andre Kolingba in 1981. Gen. Kolingba remained in power until 1993 when Felix Patasse replaced him in the country's first multi-party democratic elections.

Patasse was in office until 2003 when Gen Francois Bozize seized power in 2003. Unfortunately, these coups and counter-coups did not only increase the political instability in CAR, but also the country's state of extreme poverty. The country has considerable natural resources, such as uranium, gold, diamonds and timber, as well as huge potential for hydropower, but all these remain unexploited, leaving the government with no funds to provide even the most basic services to the citizens.

“Political instability and administrative weakness have been permanent features of the Central African Republic since independence”.<sup>8</sup> All previous governments of the Central African Republic relied almost entirely on foreign assistance for more than 70% of their budgets, but donors reduced their assistance substantially with the country's growing human rights violations. However, it was mainly owing to massive corruption and the inability of the state to pay the salaries of workers, including the military soldiers under President Bozize, led to the emergence of several factions that took arms to violently topple his regime.

## III. THE SELEKA ALLIANCE

The Seleka Alliance, led by Michel Djotodia comprised three former rebel factions, which started an armed campaign against Bozize in 2012. The origin of the Seleka fighters has always been shrouded in controversy, with the former government of CAR accusing the alliance of harboring “foreign provocateurs” – ex-rebels from Chad, Sudan and Islamists from Nigeria, which

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<sup>8</sup> “Central African Republic: history of a collapse foretold”? By Morten Boas, Norwegian Institute of International Affairs, Jan 2014

the Seleka leadership strongly denied. For the one-year of its military campaign, which resulted in the toppling of Bozize, there were no sectarian cleavages in the operation of the Seleka Alliance. The main grievances of the Alliance were initially about payment of salaries, but as they gained territories they began to put forward political grievances like the freeing of political prisoners and ending of corruption, which was rampant under Bozize. There was no doubt that at the beginning, the Seleka Alliance had the support of Central African citizens across the board, which was helpful in their military campaign. However, immediately the Alliance over-ran Bangui the French media started to refer to them as “Muslim-Led-Rebels”. Michel Djotodia, a Soviet-trained economist, though a Muslim, has never harboured any Jihadist ambition, but the specter of Mali was mischievously created to portray the Seleka Rebels as a “Muslim army”.

Djotodia might have good intentions when he put together the Seleka Alliance, but either he had no idea how to move beyond overthrowing Bozize, or he was overwhelmed by the impecunious state of the country’s economy. When he took over as Interim President in April 2013, government workers including the military had not been paid for months. Caught in this circumstance the Seleka Alliance militias committed several serious human rights violations against the civilian population, especially in the capital, Bangui.<sup>9</sup> However, it was on record that Djotodia’s government never condoned the criminal activities of the ex-Seleka “rogue” soldiers, some of whom had been declared wanted for various crimes including murder. Eventually, the Seleka Alliance had to be officially dissolved, but it was too late as some of the rebels had already carved out little fiefdoms in the countryside, as well as in the capital, Bangui. Although the Seleka rebels terrorized almost every civilian in CAR, Christians, who formed the single largest religious group in the country, the largest victims – it might be said - proportionate to their population. Unfortunately, a purely criminal action by renegade soldiers, was mischievously and with dreadful consequences, dubbed by the French media as a Muslim pogrom against majority Christians in CAR. The term “Muslim-led Rebels”, inciting as it was became the new buzzwords for the French media when referring the Seleka militia. It certainly fanned the amber of bitterness, culminating into the barbaric sectarian murders and ethnic cleansing that followed. The Seleka militias were not a regular army and the indiscipline exhibited by them was consistent with the misbehavior of similar rebel soldiers in Africa and other parts of the world, and certainly that had nothing to do with Islam, or it shouldn’t have affected innocent Muslims who were not members of the militia.

## **VI. THE ANTI-BALAKA MILITIA**

The Anti-Balaka Militia was formed in the 1990s as village self-defense forces. Their main reason for their establishment was to fight against bandits, cattle-raiders and poachers, and being a rural-based militia; its members were mostly animist, identified by the lucky charms and other fetish symbols they wore around their necks. How did the Anti-Balaka militia transform itself overnight from community-based outfit for combating cattle raiding and poaching, into a nationwide Christian Militia, whose goal is to cleanse CAR of all Muslims? Who are the leaders of the anti-balaka militia? A very intriguing thing is the more questions asked about the Anti-Balaka, the less answers one gets from all quarters. Imam Omar Kabine Layama, confirmed the obvious to Chatham House that, “The anti-balaka originally started as a self-defense group. However, this

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<sup>9</sup> A/HRC/24/59 (UN HRC REPORT TO GENERAL ASSEMBLY 12/9/13)

militia now has thousands of ex-presidential guards vying to get back into power”.<sup>10</sup> According to the Imam, unlike Rwanda which has two dominant ethnic groups, and therefore, easy to stoke up ethnic conflict, it is much more difficult to use ethnicity in CAR which has about 80 different ethnic groups. The Imam was convinced that religion was deliberately used to achieve a political objective. The views expressed by Imam Layama were shared by the “Vatican News”, which under the caption, “CAR – Are the Anti Balaka really “Christian Militia”?”, stated as follows:

*‘The clashes between former Seleka rebels and anti-Balaka militia that are ravaging the Central African Republic are often described as “interfaith”, being that the Seleka are Muslims and the anti- Balaka Christians. The reality is more complex, because not all Members of Seleka are Muslims and above all the majority of the anti-Balaka militia are not Christians’.*<sup>11</sup>

While even a cursory look at the dynamics of the CAR conflict will easily give credence to the fact that neither Seleka nor anti-Balaka were motivated or united by religion, the question of who is behind the anti-Balaka and their genocidal agenda remains unanswered. The general belief in CAR is that former president Bozize is funding the militia, with the active support of a foreign power. Most Muslims in CAR are suspicious of the French military, which they derisively refer to as the “White anti-Balaka”. As a former colonial master and with 1600 troops in CAR, mainly in Bangui, most Muslims in the country could not comprehend how the anti-Balaka rag-tag militia could carry out such horrendous massacres, especially in Bangui, without being reined-in by the peacekeeping troops. Amnesty International raised the same concern when it reported, “The anti-Balaka militia are carrying out violent attacks in an effort to ethnically cleanse Muslims from Central Africa, and the international peacekeeping troops have failed to stop the violence. They have acquiesced to the violence in some cases by allowing abusive anti-Balaka militia to fill the power vacuum created by the Seleka’s departure”.<sup>12</sup> However, the most damning evidence about the French Sangari’s lackadaisical and half-hearted desire to stop the anti-Balaka militia’s targeted killings of Muslims, at least between January and February 2014, came from a statement made by General Francisco Soriano, Commander of the French Sangari forces. When asked about the identity of the anti-Balaka, the General replied: ‘We don’t know: their chain of command and their political programme are all unknown’.<sup>13</sup> If the French troops did not know, or did not care to know who were members of the anti-Balaka, their command structure and political programme, then it shouldn’t be surprising that they were also unable to stop the barbaric massacres and coordinated cleansing of innocent Muslims by the anti-Balaka militia, ostensibly in revenge for earlier gross violations of human rights by the Seleke militia.

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<sup>10</sup> “Conflict in the CAR: Religion, Power and Prospects for Reconciliation. Statement by Imam Omar Kabine Layama, President of CAR Islamic Community, at Chatham House, London, 27 January 2014

<sup>11</sup> “The Boganda Journal: Observations on Central Africa”, 25/02/2014

<sup>12</sup> Amnesty International Report; “CAR: Ethnic Cleansing and Sectarian Killings”, 12/02/14

<sup>13</sup> “Brefing: Who are the anti-Balaka of CAR”?; IRIN Report, 12/02/2014

## V. THE HUMANITARIAN CRISIS IN CAR

From March 2013, when the Seleka rebels overran Bangui and seized power from the Bozize regime, CAR was left in the hands of bandits, who used rape, murder, and plunder, as instruments of imposing their will on the people. With just about 200 policemen to guard 4.6 million people from rebel gangs, the humanitarian crises built up to a point where the African Union (AU) had to call on concerned actors in CAR “to fully comply with international humanitarian law and human rights, and to refrain from any acts of violence against civilians”.<sup>14</sup> The AU emphasized its determination to hold accountable all violators of human rights and humanitarian law in CAR. As early as December 2013, because of the total collapse in commercial life and the insecurity that had disrupted the farming season, food shortages had started to be evident throughout the country. Muslims traders controlled more than the 80% of the commercial trade in the Central African Republic, and the immediate impact of the killings and mass exodus of the Muslims, was shortage in food supplies.

The six months, which Michel Djotodia spent as President of CAR, was punctuated by reprisal and counter-reprisal killings between ex-Seleka and the anti-Balaka militias. The dissolution of the Seleka militia in September 2013 and their disarmament ordered by Djotodia, without any serious arrangements to protect the militiamen or the Muslim communities, whom the French media had mischievously portrayed as allies of the Seleka, did not help matters, as this just opened the floodgate for anti-Balaka to start exacting total revenge on all Muslims. Once the anti-Balaka got the upper hand in the conflict<sup>4/30/14 12:05 PM</sup><sup>4/30/14 12:06 PM</sup>, their goal changed to ensuring that no Muslim in CAR – old, young, men or women were spared. There were graphic pictures of Muslims burnt alive in their houses, dismembered and even eaten up in a cannibalistic orgy, last heard of in the primitive ages! The deployment of the African-led International Support Mission (MISCA) in December 2013 with the mandate to stabilize the country as a result of the spiraling spate of sectarian killings, not only did it not show the anticipated result, but it did not also seem to halt the disintegration of CAR, with thousands scrambling to reach areas of relative safety in or out of the country.

The humanitarian situation in CAR since 2012 has remained extremely dire. It has been estimated that tens of thousands have died, and about 2.2 million people, half of the country’s population is in need of humanitarian assistance. According to OCHA, as at 31 March 2014, Internally Displaced Persons (IDPs) in CAR were about 1,625,000 with about 200,000 in Bangui alone. CAR refugees in neighbouring countries were about 319,603 (Cameroun 150,000; Chad 90,000; DR Congo 64,000; and Peoples Republic of Congo, 15,000)<sup>15</sup>. According to the same source, as at end of March 116,051 persons have been evacuated out of CAR, of which 92,3832 were citizens of Chad or third countries. There are reported cases of starvation, malaria and cholera in several camps where the victims of this crisis are taking refuge, and as the rainy season is already in sight, the problems of inadequate shelter and feeding for the refugees would increase drastically. The success of whatever supports OCHA and the humanitarian agencies may wish to give the victims will depend almost entirely on funds raised from of external contribution. The UN Under-

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<sup>14</sup> AU Peace and Security Council 362<sup>nd</sup> Meeting, Addis Ababa, 23 March 2013.

<sup>15</sup> “Central African Crisis: Regional Humanitarian Snapshot (as at March 2014)”

Secretary-General for Humanitarian Affairs and Emergency, Baroness Amos put it more aptly: “Financial support is urgently needed to provide seeds and tools so that people can plant, so that we can support the pre-positioning of stocks, support voluntary returns where possible, and improve conditions in the IDP sites. We have asked for \$551 million, given the scale of the crisis it is a modest amount. For now, we are only 16% funded”.<sup>16</sup> Among the mostly urgent things needed, according to Baroness Amos indicated tents, food and medicine especially for the most vulnerable among the IDPs and the victims that were taking refuge in the neighbouring countries.

Of more immediate concern, was how to evacuate 19,000 Muslims urgently from Bangui, as well as from other towns in CAR, who are surrounded by anti-Balaka Christian militia threatening their lives. The militia has become more militarized it now has the audacity of attacking African Union peacekeepers. The anti-Balaka up to now control all major routes to and from Bangui, as well as many towns and villages in the southwest of the country. There are currently about 6,000 peacekeepers in CAR, about half the number required, which made it extremely difficult for the troops to halt the massacres going on all over the southern part of the country. “The state has virtually no capacity to manage the array of threats it is facing – no national army, and the remnants of the police and gendarmerie lack the basic equipment and means to exercise their duties, while the administration is largely absent”, lamented Mr. Toussaint Kongo-Daudou, the Foreign Minister of CAR. Unfortunately, from all indications the United Nations would not be able to raise the number of the peacekeepers to 12, 000 – the minimum needed to take effective charge of CAR – until possibly around September 2014. Meanwhile, the United Nations Security Council through its Res.2127/2013 has authorized both the deployment of the African-led International Support Mission in the Central African Republic – MISCA – and the French troops already in CAR, to help protect civilians, stabilize the country and restore State authority over the territory, as well as create conditions conducive to the provision of humanitarian assistance. To finance such efforts, the Council requested the Secretary-General to establish a trust fund for MISCA, through which Member States and international, regional and sub-regional organizations could provide support.<sup>17</sup>

## VI. HUMAN RIGHTS VIOLATIONS

In her 64 years as a sovereign state, the citizens of the Central African Republic have never had a government that bothered about human rights and fundamental liberties. Lack of basic civil and political rights have been a common feature of all successive regimes in the country. However, even by the standards of CAR the horrendous violations of human rights have been taking place in the country since 2012 have been unprecedented. In the Annual Report of the UN High Commissioner for Human Rights to the 2013 UN General Assembly, the High Commissioner had this to say on the human rights violations by the ex-Seleka militia:

*“Reports indicate that Seleka soldiers were involved in summary executions of the members of the security forces of the former Government since the beginning of the rebel*

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<sup>16</sup> Baroness Amos, UN Under-Secretary-General for Humanitarian Affairs and Emergency: Remarks to the Press on the Situation in CAR, Geneva, 7/3/14

<sup>17</sup> S/RES/2127(2013) – 7072<sup>nd</sup> Meeting, 5December 2013.

*offensive on December 2012. The Seleka also reportedly tortured and ill-treated civilians at check-points, illegal detention centres and in other; they committed sexual violence, including against children; and looted public and private property”<sup>18</sup>*

However, the reprisal of the anti-Balaka Christian militia since September 2013, which involved coordinated attacks on Muslim neighbourhoods, including public lynching of Muslim civilians, mutilating their bodies and setting them ablaze, were atrocities without parallels in the annals of modern conflicts. “Children (Muslims) have been decapitated, and we know of at least four cases where the killers have eaten the flesh of their victims. IPHRC was shown gruesome photographs of one of those cases by one of the civil society organizations that have been courageously attempting to document violations”.<sup>19</sup> Amnesty International, which has sent several observers to Bangui and to the various refugee camps in the neighbouring countries, described the ongoing violence inflicted by the anti-Balaka Christian militia on Muslim civilians as a “tragedy of historic proportions”, which could set a dangerous precedent for other countries in the region. ‘The anti-Balaka militias are carrying out violent attacks in an effort to ethnically cleanse Muslims in the Central African Republic. The result is a Muslim exodus of historic proportions’.<sup>20</sup> The exodus has literally changed the demography of CAR, with Muslims in the north and Christians in the South of the country. The anti-Balaka militias have vowed not only to drive all Muslims from CAR, but also to wipe out any symbol of Islam in the country, hence the continuous targeting of Muslims, and the destruction of mosques especially in Bangui, the towns of Bodfas, Carnot and Berbarati, as well as Mbaiki in the south, and Bossangoa in the northwest. At least 19,000 Muslims were trapped in these cities, and it was difficult to say with any degree of certainty how many were killed or managed to escape to safe areas. “More than a thousand mosques and Koranic schools have been smashed into ruins; more than a hundred Imams have been killed”.<sup>21</sup>

It is instructive to note that the International Criminal Court (ICC) has already opened a preliminary examination in the Central African Republic to determine whether atrocities committed there constitute possible war crimes. Ms. Fatou Bensouda, the Prosecutor for ICC regretted that fighting in CAR had worsen and had taken on an increasingly sectarian nature since March 2013. Accordingly, the ICC would investigate incidents, “including hundreds of killings, acts of rape and sexual slavery, destruction of property, pillaging, torture, forced displacement and recruitment and use of children in hostilities”. She added, “In many incidents, victims appear to have been deliberately targeted on religious grounds”.<sup>22</sup> The same allegations of human rights violations have been made by different human rights bodies, i.e. Amnesty International, Human Rights Watch, Office of the UN High Commissioner for Human Rights, as well as humanitarian agencies working in the Central African Republic. It should be noted that CAR is a signatory to the Rome Statute, which led to the formation of ICC, and the court has jurisdiction over genocide, crimes against humanity and war crimes committed on the territory or by nationals of CAR since 1 July 2002, when the country ratified the Statute. The Prosecutor made it clear that these

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<sup>18</sup> A/HRC/24/59 12 September 2013

<sup>19</sup> UNHCHR Navi Pillay, press conference on 20 March 2014

<sup>20</sup> Amnesty International, Annual Report 2013

<sup>21</sup> Koert Lindijer, the Dutch NRC-Handelsblad daily, 14/3/14

<sup>22</sup> International Criminal Court (ICC) Press Release 07/02/14

investigations are “unrelated to the situation previously referred to the ICC by the CAR authorities in December 2004”.

The human rights situation in the CAR is currently being taken up at three different levels of the United Nations: the Security Council; the UN Human Rights Council; and the International Criminal Court. Pursuant to the UN Security Council Resolution 2127 (2013) of 5 December 2013, the Secretary-General has established an International Commission of Inquiry, comprising experts in both international humanitarian law and human rights law, in order to immediately investigate reports of “violations of international humanitarian law, international human rights laws, and abuses of human rights in the Central African Republic by all parties since 1 January 2013”.<sup>23</sup> The Commission is to compile information, help identify the perpetrators of such violations and abuses, point to their possible criminal responsibility and to help ensure that those responsible are held accountable. Furthermore, the Security Council called on all parties to cooperate fully with the Commission. Its mandate is to work for an initial period of one year. The Commission has a secretariat and three high-level experts, under the Chairmanship of Mr. Bernard Aho Muna of the Republic of Cameroon.

## VII. PRIORITY ACTIONS AND RECOMMENDATIONS

There are several areas in the Central African Republic crises that require very urgent action from the international community, but unfortunately very little have been done. As a result, both the security and the humanitarian dimensions of the crises remain of serious concern, more than a year since they first manifested. The almost total absence of institutions necessary for the functioning of a modern state – national army, police, judiciary, civil service, etc. – have not helped matters. Currently, without the international peacekeeping troops stationed in the country, the Transitional Government would not be able to stand even for a moment on its own. Unfortunately, the troops are mainly in Bangui and cities very close to the capital, making it almost impossible to stamp their authority on the militias who continue to commit heinous human rights violations. The priority areas that need to be addressed in order to stem the tide of the grievous human rights violations in CAR are as follows:

- (i) **Inadequate Peacekeeping Troops:** The UN has estimated that the minimum number of troops required to stabilize the security situation in CAR is about 12,000. However, these troops will not be on the ground until September. Meanwhile, the 6000 African peacekeepers (MISCA) and 2,000 French Sangaris on the ground are inadequate to protect civilians effectively, especially in and around IDP sites and remote towns where Muslims are still present. The Security Council has requested Member-States and regional organizations to contribute troops to the UN peacekeeping operation in CAR – BINUCA. Considering the interest of the OIC in stopping the genocide against Muslims and ultimately in resolving the crisis in CAR, Member-States should be encouraged and indeed, supported to contribute troops to BINUCA. The withdrawal of the Chadian troops from CAR was a deep psychological blow to the Muslim communities, who considered the Chadian troops as their main

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<sup>23</sup> Secretary-General SG/A/1451 (AFR/2799) 22 January 2014.



protectors. To facilitate the return of the Internally Displaced CAR Muslims, it is important for the OIC to get a replacement to the Chadian troops.

- (ii) **Rescuing trapped Muslims Victims:** At the time of writing this report, it was estimated that there were more than 20,000 Muslims still trapped in Bangui and several other cities in CAR, as a result of the continuous attack against them by the marauding anti-Balaka militia. The correspondent of “The New York Times” reported, “In Boda, until recently one of the few places where Muslims were relative safe in CAR, 4000 Muslims remained trapped for weeks without any rescue plan for them. Many of those who have ventured to go out had been killed, and those who remained just wanted to be allowed to leave safely”.<sup>24</sup> The OIC Secretariat needs to mobilize Member-States to deploy all the diplomatic clouts they can muster in getting the CAR Interim Government, as well as the AU and French peacekeepers to protect the remaining Muslim population in CAR from the horrific killings by the anti-Balaka militia;
- (iii) **MISCA TRUST FUND:** Security Council Res. 2127(2013), which established MISCA – the African Peacekeeping Force in CAR, also created a Trust Fund in which Member-States of the UN, international and regional organizations could provide financial support. With 6,000 troops, MISCA is the largest peacekeeping force in CAR. CFM may wish to request OIC Member-States to contribute to the MISCA Trust Fund. Several African countries have pledged to contribute to MISCA, i.e. Nigeria, \$1.5M; South Africa, \$1M; Ethiopia and Ivory Coast \$500,000 each and The Gambia, \$250,000. Algeria has promised deployment of MISCA troops to Bangui.
- (iv) **INTERNATIONAL COMMISSION OF INQUIRY FOR CAR:**  
The International Commission of Inquiry to investigate events in the Central African Republic since January 2013 should be supported by all OIC Member-States, because it offers the opportunity to go into the root cause of how a political contest for power metamorphosed into a savage mob killings of Muslims, in a country where Muslims and Christians had lived together peacefully for many years. The Commission will also compile a list of those killed and maimed, properties and business loss, etc. Similarly, the ICC is conducting investigations with a view to prosecuting those who have committed genocide or crime against humanity during the crisis. Ethnic/religious cleansing against any particular group of people constitutes genocide. Thousands have been affected in CAR and the least OIC can do is to assist the victims through knowing their rights, and in the compilation of their loses in preparation for testimony before the ICC or the Commission.
- (v) **FUTURE OF CAR:** Behind the scene, there is already a debate on the political future of the Central African Republic, with the de factor partitioning of the country into two – Muslims in the north and Christians in the south. There is

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<sup>24</sup> New York Times, 10 April 2014

a strong call for reconciliation based on a new form of government; moving away from a unitary form of government to one that would give the constituent parts of the country some measure of autonomy: federalism or confederation. All these would culminate into an election in February 2015, set by UN Security Council Res. 2127/2013. However, these are only possible if the current Interim Government is able to establish a minimum capacity to function on its own. Most of the Muslims affected by the anti-Balaka atrocities, believe that it is too early to start talking of holding elections in eight months' time, because the process of resettling those who want to return to the country would not have been completed by that time. Holding in February 2015 would tantamount to disenfranchising Muslims, thus, giving credence to the anti-Balaka's prejudice that every Muslim in CAR is a "foreigner". CFM may wish to look into the February 2015 election date for CAR, and if it finds the fear of the Muslim population credible, take up the issue with the UN Security Council.

### **VIII THE ROLE OF OIC IN THE CENTRAL AFRICAN REPUBLIC'S CRISIS**

The UN Secretary-General Ban Ki-moon has proposed a six-point initiative to address the greatest risks being faced by the people of the Central African Republic, as follows: Security, Humanitarian, Financial, Internal Administration, Reconciliation, and Elections.<sup>25</sup> The OIC Secretariat and some OIC Member-States are already engaged with one or two of these six-point agenda, either in the effort to render humanitarian assistance to the victims, or protect their lives and property. Chad and Cameroon were the only OIC Member-States with soldiers on peacekeeping operation in CAR – until Chad announced its decision to withdraw its troops from this troubled country. In addition these two OIC countries host to over 200,000 refugees or those transiting to third countries. Chad and Cameroon, no doubt, deserve enormous credit for using their scarce resources in granting humanitarian assistance to such a multitude of CAR refugees, but unless other OIC Member-States come to their assistance, the capacity for either of the two countries to continue shouldering this burden is limited. In this regard, the decision by the OIC Humanitarian Organizations Council to provide urgent humanitarian assistance to internally displaced Muslims in the CAR, as well as those in refugee camps in Cameroon and Chad is highly commendable. Unfortunately, as the OIC Secretary-General stated, "because of lack of financial capabilities from the General Secretariat, our efforts in the humanitarian domain are limited despite growing need and increasing requests".<sup>26</sup> To complement the efforts of the OIC General Secretariat and Member-States, it is important to involve the OIC civil society organizations. Regrettably among the 50+ international humanitarian agencies and NGOs that were operating in Bangui, none was from the OIC States. In this regard, the inauguration of the OIC Humanitarian Organizations Council by the Secretary-General is a welcome development. An OIC Consultative Status would enable the civil society organizations, which comprise the Council to operate under the umbrella of the OIC and to be able to raise funds in support of humanitarian interventions in crisis-ridden OIC States.

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<sup>25</sup> UN News Centre, 22 February 2014

<sup>26</sup> OIC General Secretariat Press Release (OIC Receives Growing Requests from Affected People in Central African Republic and Mali) 14/04/14

The security, financial and humanitarian aspects of the CAR crisis, without which, the road to normalcy in the country would remain impassable, is a function of mainly funds. However, reconciliation and elections, which are the final stages in the effort at bringing political stability, are more complex. There is a need for wider consultations with the representatives of the affected Muslim communities before taking a position on this phase of the transition programme. The financial cost, and geo-political implications of IOC's participation in all the above six-point initiative mentioned phases of the CAR's crisis resolution are high, yet it is conceivable that OIC is not seen to be playing a major role in the resolution of the Central African Republic's crisis. However, for political expediency, it is advisable for OIC to liaise very closely with the African Union in whatever intervention it intends to make in the Central African Republic. While defending the rights of innocent Muslims, many of whom have been brutally deprived of their lives and livelihood, OIC should also avoid being perceived to be justifying the criminal actions of rogue soldiers like the ex-Seleka, even if they were Muslims.

There is no doubt that Muslims have been the biggest victims of the human rights violations that have taken place in CAR since January 2013, and because of this, OIC has an obligation to ensure that justice is served in the investigations that will follow. Otherwise, what happened in CAR has the risk of creating a precedent for trampling upon the fundamental human rights of Muslims in countries where they are a minority, like in most of the countries in Central, Eastern Africa, and Southern Africa. Indeed, if this is not nipped in the bud, it has the potential of encouraging Islamophobia in countries where Muslims and Christians have been living peacefully for decades. Therefore, the tragedy in CAR shouldn't be seen in terms of CAR per se, but for the totality of what it represents now and in the future.

The Muslims affected by the crisis in the Central African Republic should be assisted in the collation of records pertaining to both their human and material losses, with a view to seeking compensation in the future, as well as putting effective case before the ICC, the UN Commission of Enquiry on CAR and the UN Human Rights Council Special Rapporteur on CAR.

The Chief Imam of Bangui, Oumar Kobine LAYAMA and his Christian counterpart, Archbishop Dioudonne Nzapalainga should be supported and encouraged in their reconciliation efforts.

OIC should ensure that all those who perpetrated gross violations of human rights in the Central African Republic, irrespective of affiliation, are severely punished in order to serve as a deterrent.

The Commission calls upon the OIC Secretary General, as well as Member-States to collaborate with the AU, engage France on bilateral basis because of its influence in the Central Africa, as well as the UN Secretary-General, Security Council, and the Human Council with a view to finding an urgent, fair and acceptable settlement of the CAR crisis.

The present report, and its addendum, were adopted by the IPHRC during its 5th Regular Session, held in Jeddah, at the OIC Headquarters, on 1 – 5 June 2014. The IPHRC urges CFM to also adopt and approve the implementation of this report, including the request to allow the Commission to remain engaged with the monitoring of the human rights situation in CAR on behalf of the OIC. Indeed, for CFM to be fully seized with the human rights dimensions of the

situation in the Central African Republic, IPHRC should continue to monitor and report on the implementation of the six-point initiative of the UN Secretary-General, the investigations being carried out by ICC and the UN International Commission on CAR, as well as ensure that the interest of the affected Muslim victims is protected in the UN Human Rights Council and the UN General Assembly.

**ADDENDUM TO THE REPORT ON HUMAN RIGHTS SITUATION IN CAR  
FOLLOWING IPHRC FIELD VISIT TO CAR  
ON 16 – 17 MAY 2014**

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IPHRC report on the "Human Rights Situation in the Central African Republic post December 2013, was based on the collation of reports on the subject by several international human rights NGOs, humanitarian agencies, as well as on IPHRC's analysis of these reports, and recommendations proffered. The addendum, on the other hand, is a complement to the report, based on IPHRC's field visit to the Central African Republic (CAR) on 16-21 May, 2014, which was undertaken simultaneously with the OIC delegation sent to assess the humanitarian needs of the victims of the crisis.

Being a complement to the main report, the addendum tries to explore areas that have not been touched upon by the report or have not been captured in details, as follows:

- i. **Right to Life:** this is the most fundamental human right, and five months since the sectarian crisis started in CAR, Muslims are still hacked to death right inside Bangui. More than 90% of the country's Muslims have fled the country, living in pathetic situation in camps for the Internally Displaced Persons (IDPs) or in refugee camps mainly in Cameroon and Chad. There are also thousands of Christian internally displaced persons though, but they are not subjected to targeted killings like their Muslim compatriots. Presently, out of the estimated 250,000 Muslims that were in Bangui before the crisis, just about 1000 are still left, literally trapped in their PK-5 quarters. Any attempt to leave that area is met with death in the hands of the anti-Balaka Christian militias that surround the area. During the period of our visit, five Muslims that ventured to leave the PK-5 Quarters were killed, including one that was pulled out of a taxi and butchered right in front of some members of our delegation. The saddest thing is that in spite of the presence of the AU and French Sangari troops, the anti-Balaka Christian militias still kill at will. In the only secure hotel in Bangui, where we stayed during the visit, there were five Muslims that have been living in the hotel since December 2013 paying about \$US300 per day, but cannot step out beyond the hotel premises without being killed. Indeed, one was forced to change his name from Abubakar to Christian "Alain" for the sake of dear life. Unfortunately, he is being 'betrayed' by the black prayer spot on his forehead! IPHRC is of the view that OIC should launch a rescue appeal to save these people from their traumatic situation. We discovered that there is another group of Muslims that are being silently exterminated by the anti-Balaka militia, without attracting the attention of the international community. These are the Fulani (Mbororo) nomadic herdsmen. According to reports we got from Muslims left in Bangui and those living in refugee camps in Cameroon, hundreds of these nomadic herdsmen have been killed and their animals taken by the anti-Balaka militia. IPHRC came across one of the nomadic herdsmen in a refugee camp in Cameroon, who told me that he had lost over 200 cows. Sadly, it is difficult to assess the number of Muslims that have been killed since

December 2013, because no agency has been able to go into most of the provinces outside Bangui, where similar atrocities have been carried out.

- ii. **Freedom of Religion:** the thousands of Muslims that have been killed in CAR was for no other reason than being Muslims! In some instances, their bodies were desecrated and deprived the opportunity of being buried according to Islamic injunctions. It was estimated that there were about 36 standard mosques in Bangui before the crisis, but only three are standing at the moment, with children playing football on the land that used to be mosques! The Muslim community in Bangui has raised with us the issue of the status of the mosques and their houses that have been destroyed. They need a commitment from the Interim Government that they would be assisted to rebuild their houses, and the mosques would be rebuilt on the same land. In this regard, it is very important that a record of all places of worship destroyed is taken as soon as possible. Freedom of religion is basic in any attempt to heal the wounds from the crisis, and the Interim Government should be more up and doing in this area. In an answer to the question IPHRC posed to some Muslims and their Christian counterparts, whether the Interim Government was doing enough to bring about the urgently needed reconciliation in the country, the response was mainly negative. It would be difficult to be otherwise, with people still being massacred simply on the basis of their faith. From the visit, IPHRC came out with the conviction that it is more difficult to heal the wounds of conflicts arising from ethnic, ideological or political differences than religious differences, which tend to be more pervasive.
- iii. **The role played by the French Sangari Forces:** The Muslim community in CAR has absolutely no confidence in the French Sangari troops in the country. This is evident in the numerous graffitis like "France is the enemy of Islam" and "No French soldiers welcome here" all over the Muslim enclave in Bangui. It was alleged that the French troops refused to protect the Muslim minority when they were being killed in Bangui, because "France did not want to be perceived as taking sides in the fight between the Seleka and anti-Balaka militias". In its report of 28/01/14, Human Rights Watch said, "The French Sangari troops, who are disarming the Seleka, often seem reluctant to intervene because according to them they cannot take sides, even when Muslims, now unarmed, are killed in revenge attacks by anti-Balaka". Similarly, Navi Pillay, the UN High Commissioner for Human Rights said on 20/01/14 that "France left Muslim communities vulnerable to attack by first disarming the ex-Seleka militia". With such revelations, it is difficult to dismiss the suspicion and lack of trust for the French from the CAR Muslim communities. However, whether in direct intervention as Sangaris or under the umbrella of the expanded UN Peacekeeping Operation coming up in September, France as a former colonial master, will continue to play a dominant role in CAR. Question is, how can France, which is not perceived by the Muslims as an impartial party be a mediator in the crisis in CAR? IPHRC is of the view that OIC has to step-up its role in the diplomatic effort to bring back peace in CAR in collaboration with France and the instrumentalities of the United Nations, including greater participation in the UN peacekeeping operations in the troubled country.
- iv. **Human Rights Investigations into the violence in CAR:** The United Nations Security Council, the International Criminal Court (ICC) and the UN Human Rights Council have all launched investigations into the massive human rights abuses in CAR, as IPHRC has

mentioned in its main report. During IPHRC's visit to the country, it was found out that the remaining Muslim communities were not aware of these investigations, let alone prepare well for them. For example, IPHRC discovered that no accurate record of Muslims that have been killed, except the ones that have been brought to the mosque for funeral were kept. Neither do they have accurate records of their properties destroyed, because of the nature of most Muslims departed from the country. Hundreds of shops belonging to Muslims have not only been looted but the buildings raised down also. It was very obvious that the Muslim communities need legal assistance to help them in giving evidence before the series of the investigation panels set up for CAR, as well as to prepare more accurate records of their human and material loses. So far, all their records are manually kept and one or two computers will make a world of difference in their task.

- v. **Suspension of Kimberly Process Certification:** CAR was suspended from the Kimberly Certification Process in June 2013, and since then the country's diamonds have not been traded legally on the international diamond market. The loss of certification has deprived the country of about 50% of its revenue. During our visit the Interim Government requested OIC States to lobby on its behalf for the lifting of the suspension. However, when IPHRC discussed this request with the Muslim community leaders, their views were in conflict with that of the Interim Government. Muslims controlled the diamond trade before the conflict, but after the massacre by the anti-Balaka, the diamond fields are now under the control of what the Prime Minister called "Criminal Gangs". The Muslims believe that lifting the sanctions on the export of diamonds at this time, would only strengthen the criminal gangs, thus, making it more difficult for the Muslims forced to flee the country get back their mining operations when they are back. Accordingly, the Muslim mining communities believe that it is not yet time to lift the sanctions. IPHRC believes that lifting the Kimberly Certification Process for CAR should not be discussed in isolation of the overall reconciliation process in the country.
  
- vi. **February 2015 Elections:** although approved by a UN Security Council resolution, holding "an all-inclusive, free and fair elections" in the Central African Republic not later than February 2015, is practically impossible. This is because up to this moment Muslims are still being massacred in the country, and almost 50% of the country's population are in need of humanitarian assistance. Almost every single representative of the humanitarian agencies operating in Bangui shared this view. How did the UN Security Council arrive at this conclusion when the representatives of the various UN humanitarian and development agencies on the ground hold a contrary view? Speaking to a Muslim former member of the National Assembly about the preparedness of Muslims to participate in a general election next February he answered, "When people are fighting for their lives elections are the last thing that come to mind". He went further by stating that in his own constituency more than 90% of the Muslims have fled Bangui, including members of his family. "All these are French machinations to ensure that the Central African Republic remains under their firm control", he added. Once more, IPHRC recommends that OIC States should take up this matter at the Security Council, with a view to getting the resolution reviewed not only because it is unfavorable to the thousands of Muslims who have been forced to flee the country, but also because it doesn't reflect the socio-political reality on the ground.

Finally, IPHRC visit to CAR has brought about the conviction that the process of reconciliation in the country is a long haul, and OIC has to map out its strategy of getting engaged for the duration.

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## **Annex 4**

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### **OIC Independent Permanent Human Rights Commission (IPHRC) condemns the derogatory remarks against Islam by the President of the Czech Republic**

**Jeddah, June 5, 2014:**

The IPHRC expresses its deep concern and strong disappointment at the Islamophobic statement made by Mr. Milos Zeman, President of Czech Republic on 26 May 2014 that “Islamic ideology rather than individual groups of religious fundamentalists was behind violent actions similar to the gun attack at the Jewish Museum in Brussels”. The Commission stated that the statement was based on stereotypes against Islam, was conceptually false, factually wrong and misleading.

The Commission further condemns this statement as a clear manifestation of hatred that constitutes incitement to hostility and violence as stipulated in article 20 of International Covenant on Civil and Political Rights (ICCPR).

The IPHRC reaffirms the proclamation made in numerous United Nations declarations including the latest resolution A/RES/68/127 adopted by the 68th Session of the UN General Assembly that “no religion should be equated with extremism and violence”.

The Commission invites the UN Human Rights Council and relevant bodies of the Council of Europe and European Union to pay due attention to this development and to take it up within their monitoring mechanisms in order to denounce this type of derogatory statements as well as to urge all political leaders to avoid such rhetoric that incite hatred, discrimination and violence against persons and groups based on their religion or belief.

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**OIC Independent Permanent Human Rights Commission (IPHRC)**  
**concludes its 5th Regular Session**

**Jeddah, June 5 2014:**

The OIC Independent Permanent Human Rights Commission (IPHRC) held its 5th Session in Jeddah, Kingdom of Saudi Arabia from 1-5 June 2014. The Session was attended by Representatives of Member-States, Observer States, Officials of the OIC General Secretariat, as well as the media.

In his opening remarks, Ambassador Mohammad K. Ibrahim, the Chairperson of the Commission, highlighted the importance of the role and work of IPHRC in supporting and strengthening Member-States' efforts in promoting and protecting the human rights of their citizens. To that end, the Chairperson, apprised the participants on the list of activities carried out by the Commission since the last session and enumerated the main issues on which it has been working in the recent past. He also thanked Member States' keen interest in the work of the IPHRC and requested their strong support for provision of required resources to the Commission for the fulfillment of its mandated responsibilities.

During the five day session, the Commission had in-depth discussions on all items on its agenda including human rights violations in Occupied Palestinian Territories; civil, political, economic, social and cultural rights in OIC Member States; as well as specific mandates given to it by the CFM such as Islamophobia, negative impact of unilateral economic sanctions on member states; situation of Rohingya Muslim minority, human rights situation in Central African Republic, and creation of mechanism for monitoring human rights violations against Muslim minorities.



The Commission expressed its disappointment with the continued and ongoing violations of Palestinians' human rights by the occupying power Israel. It strongly condemned the arbitrary practice of administrative detentions of Palestinian people as discriminatory and contrary to all existing international human rights and legal standards. It called upon OIC Member States to highlight these discriminatory practices at all relevant international human rights forums and requested the upcoming OIC Council of Foreign Ministers (CFM) to consider referring the matter to the International Court of Justice, through appropriate channels, for an advisory opinion on its illegality that severely impacts Palestinians' human rights. The Commission also reiterated its firm stance that Israeli occupation was the primary cause of all human rights violations, which impacts the full range of civil, political, economic, social and cultural rights of Palestinian people.

During the Session, the Commission considered and finalized two reports on the subjects of "Negative impact of economic and financial sanctions on the full range of human rights of the people in the targeted OIC States" and the "Human rights situation in the Central African Republic". Based on the existing international law and human rights norms, the first report calls the economic and financial sanctions as illegal, discriminatory and counter-productive to the purposes and principles of the UN Charter and other international human rights standards. The report on Central African Republic, which was based on first-hand information acquired through an on-ground visit to the affected country as well as refugee camps in the neighbouring states, provides an overview of the ongoing human rights situation in the country with specific recommendations on how to address the state of affected Muslim population as well as steps needed to ensure avoidance of future recurrence of these events. These reports together with the Commission's specific recommendations would be considered by the upcoming 41st Session of the CFM.

The Commission also delved in detail on the issues of right to development and human rights of women and children. Discussions on these subjects were complemented by participation of experts from Islamic Development Bank and Islamic Fiqh Academy. It was agreed that joint seminars / symposiums would be held on specific topics and projects in these areas with a view to defining common positions/ views that would help Member States in better understanding these issues from a holistic angle.

IPHRC regretted the lack of response from Myanmar authorities on its repeated requests to undertake a visit to their country to discuss the issue of Rohingya Muslims. The Commission urged the Myanmar authorities to favorably consider its request, on priority.

The Commission also issued a press release condemning the factually incorrect and fallacious statement by President Milos Zeman of Czech Republic about Islam. It termed

Mr. Zeman's statement as a clear manifestation of hatred that constitutes incitement to hostility and violence. The Commission reaffirmed that no religion should be equated with violence and extremism and urged relevant international human rights mechanisms to openly denounce such assertions.

The Commission decided to invite National Human Rights Institutions of Member States in its future symposiums/ workshops, with a view to benefitting from their practical experiences and expertise in dealing with these issues, on ground. The Commission further agreed to address specific themes during its next session and established an *ad hoc* sub-working group to monitor violations of human rights of Muslim minorities.

The Commission thanked those Member States who have provided IPHRC with their human rights legislative, institutional and policy frameworks related to items under consideration and urged remaining Member States to do the same with a view to compiling a list of best practices to be shared with Member States. IPHRC reiterated its call upon all Member States to expedite ratification of the statute of OIC Women Development Organization enabling its early establishment in Cairo. The Commission also finalized the launching of its website that would become operational from 1st of July.

In his concluding remarks, reaffirming Commission's strong commitment to the responsibilities entrusted by Member States in the area of human rights, the Chairperson expressed Commission Members' resolve to fulfilling their mandate by continuing to provide expert advisory opinion and recommendations to Member States on all issues of concern in accordance with the OIC Charter and Statute of the IPHRC. Amb Ibrahim also thanked Member States for their valuable inputs on various issues of interest to the Commission, which he added were crucial to the fulfillment of IPHRC's mandate. He also expressed special thanks to the OIC Secretary General for extending all services for hosting IPHRC Sessions and his continued support to the functioning of the IPHRC Secretariat.

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